

EXHIBIT A

**TO DECLARATION OF MATTHEW D. BROWN
IN SUPPORT OF FACEBOOK, INC.'S OPPOSITION
TO PLAINTIFFS' MOTION FOR CLASS CERTIFICATION**

[PUBLIC REDACTED VERSION]

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

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ANGEL FRALEY; PAUL WANG, et)
al.,)
Plaintiffs,)
vs.) No. CV-11-01726LHK
FACEBOOK, INC., a)
corporation; and Does 1-100,)
Defendants.)
_____)

VIDEOTAPED DEPOSITION OF SUSAN MAINZER
TUESDAY, DECEMBER 20, 2011

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<p>1 2 3 4 5 6 7 Deposition of SUSAN MAINZER, taken on behalf of 8 Defendants, at COOLEY, LLP, 101 California Street, 5th 9 Floor, San Francisco, California, commencing at 9:43 10 a.m., Tuesday, December 20, 2011, before Kelli Combs, 11 CSR 7705. 12 13 14 15 16 17 18 19 20 21 22 23 24 25</p> <p style="text-align: right;">Page 2</p>	<p>1 SUSAN MAINZER, 2 after having been duly sworn, testified as follows: 3 ---o0o--- 4 5 THE VIDEOGRAPHER: Good morning. We're on 9:43:18AM 6 the video record at 9:43 a.m. on December 20th, 7 2011. This is the videotaped deposition of 8 Mrs. Susan Mainzer. 9 My name is Alexei Dias and our court 10 reporter is Kelli Combs. We are here from Veritext 9:43:33AM 11 National Deposition & Litigation Services. 12 This deposition is being held at Cooley, 13 LLP, 101 California Street, Fifth Floor, in the City 14 of San Francisco. The caption of this case is 15 Fraley, et al. versus Facebook, Case Number 9:43:51AM 16 CV-11-01726LHK. 17 At this time, will counsel and all present 18 please identify themselves for the record. 19 MR. BROWN: Matthew Brown for Defendant 20 Facebook. 9:44:07AM 21 MR. ARNS: Robert Arns for Plaintiffs. 22 MR. JAFFE: Jonathan Jaffe for Plaintiffs. 23 THE VIDEOGRAPHER: Thank you. 24 The witness will be sworn in and we can 25 proceed. 9:44:18AM</p> <p style="text-align: right;">Page 4</p>
<p>1 APPEARANCE OF COUNSEL: 2 3 FOR PLAINTIFFS: 4 THE ARNS LAW FIRM 5 BY: ROBERT S. ARNS, ESQ. 6 515 Folsom Street, 3rd Floor 7 San Francisco, California 94105 8 (415) 495-7800 9 rsa@arnslaw.com 10 -and- 11 JONATHAN M. JAFFE 12 Attorney at Law 13 3055 Hillegass Avenue 14 Berkeley, California 94705 15 (415) 425-1474 16 jmj@jaffe-law.com 17 FOR DEFENDANTS: 18 COOLEY, LLP 19 BY: MATTHEW BROWN, ESQ. 20 BENJAMIN KLEINE, ESQ. 21 101 California Street, 5th Floor 22 San Francisco, California 94111 23 (415) 693-2026 24 mbrown@cooley.com 25 Also present: Alexei Dias, Videographer</p> <p style="text-align: right;">Page 3</p>	<p>1 (Deponent sworn.) 9:44:18AM 2 EXAMINATION 3 BY MR. BROWN: 4 Q Please state and spell your name for the 5 record. 9:44:31AM 6 A My name is Susan Mainzer. That's 7 S-U-S-A-N M-A-I-N-Z, as in zebra, E-R. 8 Q And is that your current legal name? 9 A That is my current legal name. 10 Q And I see in some documents and the like 9:44:47AM 11 references to Susan von Seggern. 12 So I take it that, then, is not your legal 13 name or is that -- 14 A That's my married name. 15 Q But your legal name is still Susan 9:45:00AM 16 Mainzer? 17 A Yes. 18 Q When did you get married? 19 A July 19th, 2008. 20 Q And what name did you use to register for 9:45:17AM 21 Facebook? 22 A Susan Mainzer. 23 Q Okay. 24 And then did you change the name on your 25 Facebook account to Susan von Seggern at some point? 9:45:29AM</p> <p style="text-align: right;">Page 5</p>

<p>1 A I think about a week after my wedding, 9:45:36AM 2 after I got back from my honeymoon. 3 Q And you didn't -- 4 You didn't register for Facebook again, 5 you just changed the name on that existing account, 9:45:47AM 6 correct? 7 A Yes. 8 Q Have you ever been deposed before? 9 A No. 10 Q Okay. 9:45:55AM 11 So just a couple things about this 12 deposition process, and I'm sure Mr. Arns has 13 probably already talked to you about a little of 14 this. 15 But try to wait for me to finish my 9:46:04AM 16 question before you start answering. There are 17 going to be times where we talk over each other, but 18 we'll both do our best not to. 19 It's important, since all of this is being 20 transcribed by the court reporter, to try to answer 9:46:18AM 21 vocally, rather than with just a shake of your head, 22 and it's important to try to remember to say "yes" 23 or "no," as opposed to "uh-huh" or "huh-uh," which 24 is harder for the court reporter to pick up. 25 You understand that you're under oath and 9:46:35AM Page 6 </p>	<p>1 What did you do to prepare for the 9:47:21AM 2 deposition today? 3 A I met with my lawyers last night and this 4 morning. 5 Q Anything beyond that? 9:47:30AM 6 A No. 7 Q Did you review any documents to refresh 8 your recollection -- 9 A No. 10 Q -- in preparation? 9:47:41AM 11 What's your current age? 12 A I am 43 years old. 13 Q And your birthdate was? 14 A August 17th, 1968. 15 Q And what's your current home address? 9:47:54AM 16 A 6600 Leland Way, Los Angeles, California 17 90028. 18 Q And how long have you lived at that 19 address? 20 A A little over four months. 9:48:06AM 21 Q And -- 22 A I mean -- I'm sorry -- a little over four 23 years. 24 Q And where did you live before that? 25 A I lived at 853 Larrabee, L-A-R-R-A-B-E-E, 9:48:18AM Page 8 </p>
<p>1 you're sworn to tell the truth just like you were in 9:46:38AM 2 court? 3 A Yes. 4 Q Also, from time to time your lawyer may 5 make objections for the record to some of my 9:46:45AM 6 questions, but unless he specifically instructs you 7 not to answer, then you should go ahead and answer 8 my question. 9 Do you understand that? 10 A Yes. 9:46:57AM 11 Q Any reason your deposition should not go 12 forward at this time? 13 A No. 14 Q Okay. 15 Any reason you wouldn't be able to testify 9:47:03AM 16 truthfully today? 17 A No. 18 Q Okay. 19 Are you on any sort of prescription drugs 20 or anything that would impair your ability to 9:47:12AM 21 testify? 22 A No. 23 Q And that's a common question I ask 24 everybody, so sometimes it takes people by surprise, 25 but... 9:47:19AM Page 7 </p>	<p>1 Street in West Hollywood, California, and I lived 9:48:21AM 2 there for almost 12 years. 3 Q And who is your primary e-mail service 4 provider? What e-mail do you normally use? 5 A My e-mail that I use is 9:48:37AM 6 Susan@SusanvonSeggern.com, and I use a private 7 e-mail service provider, which is VisitUsAt.com. 8 Q And do you use Facebook as an e-mail 9 service, as well? 10 A I sometimes use the messaging function of 9:48:56AM 11 Facebook. 12 Q Have you claimed your Facebook.com e-mail 13 address? 14 A I'm not sure. 15 Q Did you -- 9:49:10AM 16 At some point, did you sign up to have 17 like a special user name that shows up in the URL 18 when you go onto your profile page? 19 A Yes. 20 Q And are you aware that then that user name 9:49:21AM 21 also basically gets used as like a Facebook e-mail 22 address, so it might be 23 SusanvonSeggern@Facebook.com? 24 A I have seen those Facebook addresses 25 before, but I wasn't aware that that was how you got 9:49:40AM Page 9 </p>

1 **Q But do you do any --** 9:54:37AM
2 **Do you have ongoing consulting**
3 **responsibilities or anything like that?**
4 A No.
5 **Q After the Kucinich campaign, what did you** 9:54:45AM
6 **do next professionally?**
7 A I was doing freelance consulting for PR.
8 **Q And how long did you do that?**
9 A About a year.
10 **Q So what timeframe does that get us to?** 9:55:06AM
11 A That would be -- actually started
12 consulting a little before the Kucinich campaign
13 ended, so I started consulting in March of 2004 and
14 I -- and I was consulting until March of 2005.
15 **Q Just going back for one second, what was** 9:55:27AM
16 **your role in the Kucinich campaign?**
17 A My title was national media coordinator
18 and I did a lot of things. I handled all
19 non-mainstream national media, so everything that
20 wasn't the New York Times or Nightline kind of fell 9:55:47AM
21 in my lap. So it was all -- any kind of niche
22 media, so Entertainment Green, JLB, what have you.
23 And I also handled all the local media all
24 over the country. So whenever Dennis would go to a
25 city, I would handle the radio and the television 9:56:08AM

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1 and the newspapers in that city. 9:56:10AM
2 And I also managed a 50-state volunteer
3 media team and I also handled all of California
4 media and did all of that, Rich Forell and myself.
5 I was busy. 9:56:21AM
6 **Q I was going to say political campaigns**
7 **have a way of having amorphous roles.**
8 A It was really a joy to work on that one.
9 **Q That's interesting.**
10 **So in the freelance consulting work, do** 9:56:33AM
11 **you recall what sorts of clients you had at that**
12 **time?**
13 A I had the Activist Film Festival, which is
14 an activism film festival, and I had some music
15 clients. I can't really remember what else I did. 9:56:46AM
16 **Q So I think you said that that went through**
17 **about March 2005; is that correct?**
18 A Uh-huh.
19 **Q So what did you do professionally after**
20 **that?** 9:56:58AM
21 A I became the head of PR for Bodog
22 Entertainment.
23 **Q How do you spell that?**
24 A B-O-D-O-G.
25 **Q And what does Bodog do or what did it do** 9:57:11AM

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1 **at that time?** 9:57:15AM
2 A It was a large online gambling website and
3 then at a later point they also launched a record
4 label and mixed martial arts fighting league and
5 some television shows. 9:57:29AM
6 **Q What was your title at Bodog**
7 **Entertainment?**
8 A I think I was -- I was the head of PR and
9 then towards the end I became the global head of
10 media relations. 9:57:46AM
11 **Q And what were the dates of --**
12 A April 2005 to April 2008.
13 **Q And just generally speaking, what was --**
14 **what were your marching orders there at Bodog? What**
15 **were you supposed to accomplish in your role as the** 9:58:08AM
16 **PR person there?**
17 A Getting them covered in newspapers and
18 magazines and online and television and radio and --
19 both in North America and Europe and Latin America
20 and the Caribbean and Asia. 9:58:25AM
21 **Q So essentially, to increase the visibility**
22 **of the company --**
23 A Uh-huh.
24 **Q -- or I guess, put another way, increase**
25 **the visibility of the events or products or services** 9:58:36AM

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1 **that they sold?** 9:58:39AM
2 A Uh-huh.
3 THE REPORTER: Is that "yes"?
4 THE WITNESS: Yes.
5 BY MR. BROWN: 9:58:46AM
6 **Q She's better at catching that than I am.**
7 A Sorry.
8 **Q After you left Bodog Entertainment in**
9 **April 2008, what was your next job after that?**
10 A Wedding planner for myself and then -- 9:58:58AM
11 **Q That can be a full-time job.**
12 A It really was. And -- because I had done
13 nothing wedding planning, really, before that.
14 And -- and then I started -- I started
15 consulting again in August of 2008. 9:59:15AM
16 **Q And were you with a company when you**
17 **started back up doing consulting in August 2008?**
18 A No. I've just been doing consulting on my
19 own since then.
20 **Q And do you have like a doing business as** 9:59:33AM
21 **type name or is it -- you just go by your own?**
22 A Yeah, I just use my married name, Susan
23 von Seggern.
24 **Q And so is Susan von Seggern the name you**
25 **use professionally or personally or both at this** 9:59:57AM

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1 point? 9:59:59AM
2 A Both.
3 Q And can you give me kind of an overview of
4 the type of work that you have been doing since
5 August 2008? 10:00:11AM
6 A Same PR stuff, getting my clients covered
7 in the media, and -- and a -- a fair amount of
8 social media marketing/PR, too.
9 Q And can you give me some more detail on
10 what kind of social media marketing you do? 10:00:36AM
11 A A fair amount of Facebook. I, you know,
12 will do invites if it's an event client or sometimes
13 creating pages.
14 I manage peoples' Twitter accounts.
15 Sometimes I'll set up a LinkedIn page -- cover page. 10:01:00AM
16 Q So let me just ask a few follow-up
17 questions. I think I understand, but just to make
18 sure it's clear.
19 So you will have a client that will retain
20 you for your PR services, and one of the things you 10:01:21AM
21 might do on Facebook would be to help them set up a
22 Facebook page, in other words?
23 A Yes.
24 Q And then another way you might use
25 Facebook to do your work would be if your client is 10:01:33AM
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1 holding an event of some sort, you would use the 10:01:39AM
2 invitation feature of Facebook in order to try to
3 get people to come to the event?
4 A Yes.
5 Q On Facebook, are there any other kind of 10:01:52AM
6 mechanisms that you use on behalf of your clients?
7 A I work with a lot of festivals, so -- film
8 festivals and music festivals, and so sometimes like
9 I'll -- I'll -- I'll go and "Like" all the artist
10 pages for all the artists that are in that festival 10:02:12AM
11 and then I'll post information about the festival on
12 those -- on the walls of those pages so that other
13 fans of those artists can know that they are playing
14 at that festival or movie, same thing.
15 Q Okay. 10:02:28AM
16 Anything else that you can think of beyond
17 those? We've talked about pages and we've talked
18 about liking bands, for instance, posting on those
19 walls. Anything else?
20 A Sometimes I'll post things on my wall or I 10:02:43AM
21 might post things on my friends' walls if it's
22 appropriate. I try not to do that, really.
23 Q And really, the overarching goal in all of
24 those activities on Facebook is essentially to,
25 again, increase the visibility of whatever it is 10:03:01AM
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1 that your clients are trying to accomplish? 10:03:05AM
2 A That is correct.
3 Q And if it's --
4 For instance, if you have got a client
5 that's selling a product, ultimately the goal is -- 10:03:12AM
6 maybe it's obvious, but the goal is to ultimately
7 try to get people to buy the product, right?
8 A Yes.
9 Q And if it's a service that your client is
10 offering, the ultimate goal is to try to get people 10:03:25AM
11 to use the service?
12 A Yes.
13 Q And if it's an event that they are -- your
14 client is holding, the ultimate goal is to try to
15 get people to attend the event? 10:03:39AM
16 A Yes.
17 Q And generally, aside from those ultimate
18 goals, you have the goal, generally, of trying to
19 create buzz about the clients that you work with,
20 right? 10:03:51AM
21 A Yes.
22 Q And then since August 2008, have you been
23 doing any other kind of work or just your sort of
24 own consulting business?
25 A I develop television shows. 10:04:10AM
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1 Q What percentage of your time, let's just 10:04:15AM
2 say these days, is devoted to that, as opposed to
3 the PR work?
4 A 10 percent.
5 Q Anything else beyond that? 10:04:30AM
6 A I handle the business management for my
7 husband.
8 Q What does your husband do?
9 A He's a musician and a -- and a music
10 technology consultant. 10:04:49AM
11 Q About what percentage of your time would
12 you estimate you spend doing that?
13 A 5 percent.
14 Q And your TV show production, are there any
15 shows that I've heard of? 10:05:15AM
16 A My Cat From Hell is starting its second
17 season on Animal Planet January 7th.
18 Q Speaking of buzz, that's gotten a lot of
19 buzz recently.
20 Anything else? 10:05:26AM
21 A I have a few other things in development,
22 but nothing that has gotten green-lit yet.
23 Q Excellent.
24 Are you generally familiar with the
25 complaint that was filed on your behalf against 10:05:40AM
Page 21

1 **Facebook?** 10:05:43AM
2 A Yes.
3 **Q Okay.**
4 **What is your understanding of the basis**
5 **for the complaint?** 10:05:49AM
6 MR. ARNS: Excuse me. Object; calls for a
7 legal conclusion. The complaint was prepared by
8 lawyers who set forth legal theories of liability,
9 and it wouldn't be expected that you would
10 understand those theories at all. She's not a 10:06:04AM
11 lawyer.
12 Go ahead. If you know, you can say so.
13 If you don't know, say that, please.
14 THE WITNESS: I mean, my general
15 understanding is that -- 10:06:18AM
16 MR. ARNS: Also -- I'm sorry for
17 interrupting -- I'm just going to object this also
18 would invade the attorney/client privilege, as the
19 communication that we have given her has given her
20 understanding what this case is about. 10:06:33AM
21 If you want to answer the question with
22 just a general understanding, that would be fine, if
23 you can do that.
24 THE WITNESS: Yeah, you know what, I think
25 most of my understanding comes from my discussions 10:06:43AM
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1 with my lawyer, so I think that I -- can I pass? 10:06:45AM
2 Should I pass? How does that work?
3 BY MR. BROWN:
4 **Q Let me just try to ask it in a different**
5 **way. What I'm definitely not asking you to do is to 10:06:54AM**
6 **convey, either directly or indirectly,**
7 **communications you have had with your lawyers.**
8 **But putting aside legal theories for a**
9 **minute, what's your understanding of the factual**
10 **basis for the complaint?** 10:07:11AM
11 A That Facebook uses my name and likeness in
12 advertising without my knowledge or permission.
13 **Q And you understand that as a named**
14 **Plaintiff in a class action case like this one, that**
15 **you're essentially representing a class or a group 10:07:35AM**
16 **of people, correct?**
17 A Yes.
18 **Q And what is your understanding of the**
19 **scope of that group that you're representing?**
20 A Well, my understanding is that it would be 10:07:49AM
21 everyone who has had their likeness or name used in
22 a sponsored story. And I'm not sure --
23 MR. ARNS: You answered it.
24 THE WITNESS: Yeah. I'm -- I'm not -- I'm
25 not sure if that -- if that's everyone in America or 10:08:06AM
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1 if that's just people in California, because I'm not 10:08:11AM
2 sure about the --
3 MR. ARNS: It's -- for your knowledge,
4 it's everybody in the United States.
5 THE WITNESS: It's everybody in the United 10:08:19AM
6 States.
7 BY MR. BROWN:
8 **Q And again, when I ask this question, I**
9 **don't want you to reveal communications that you had**
10 **with your lawyers, so just with that premise. 10:08:29AM**
11 **So what was the extent of your involvement**
12 **in developing the complaint?**
13 MR. ARNS: Okay. Object; vague and
14 ambiguous. "Developing the complaint"? That phrase
15 is vague and ambiguous. She had nothing to do with 10:08:46AM
16 that whatsoever.
17 THE WITNESS: Yeah, I had nothing to do
18 with that.
19 BY MR. BROWN:
20 **Q What involvement did you have, if any, in 10:08:55AM**
21 **planning for the ultimate preparation of the**
22 **complaint?**
23 MR. ARNS: Object; vague and ambiguous,
24 unintelligible.
25 Do you understand that? 10:09:10AM
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1 THE WITNESS: Yeah, no. 10:09:11AM
2 BY MR. BROWN:
3 **Q Well, let me ask you this: Do you know**
4 **what legal claims you brought against Facebook?**
5 MR. ARNS: Okay. Object; calls for a 10:09:23AM
6 legal conclusion, invades the attorney/client
7 privilege.
8 Do you understand any of those legal
9 claims?
10 MR. BROWN: Well, wait a minute. I just 10:09:31AM
11 want to make it clear. So I'm not asking for her to
12 be a lawyer and give a treatise on the legal
13 theories. I'm also not asking her what
14 communications she had with you about -- I'm just
15 asking does she know what the legal claims are. 10:09:47AM
16 MR. ARNS: Yes. And let me just say this:
17 Any of that information would obviously have been
18 based on a discussion with her attorneys, so I
19 think -- object; invade the -- invades the
20 attorney/client privilege. 10:10:00AM
21 MR. BROWN: So you're going to instruct
22 her not to answer even as to her knowledge of what
23 causes of action are alleged in the complaint?
24 MR. ARNS: If you have any separate
25 knowledge above and beyond what you learned from the 10:10:10AM
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1 lawyers, you can state that. 10:10:13AM
2 THE WITNESS: All right. No, I don't.
3 BY MR. BROWN:
4 **Q Have you ever --**
5 MR. ARNS: Hold on one second. 10:10:20AM
6 By the way, you're doing a fantastic job.
7 In normal conversations, we don't wear microphones
8 and stuff and I guess -- did she have her arm on the
9 microphone?
10 THE VIDEOGRAPHER: Yes. 10:10:31AM
11 MR. ARNS: Okay. Very good. Every time
12 you get up, you will forget to take the microphone
13 off. I will, too. This is just the pain that goes
14 with this video stuff.
15 MR. BROWN: My microphone is going to come 10:10:46AM
16 off at least 10 times as I go over to get these
17 exhibits.
18 MR. ARNS: Yeah.
19 BY MR. BROWN:
20 **Q Have you reviewed any of the complaints 10:10:54AM**
21 **that were filed in this case?**
22 A No.
23 **Q Have you ever heard of Business and**
24 **Professions Code Section 17200?**
25 A No. 10:11:14AM

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1 **Q Have you ever heard of Civil Code -- 10:11:14AM**
2 **California Civil Code Section 3344?**
3 MR. ARNS: Excuse me. Let me just say
4 this: Object; invades the attorney/client
5 privilege. The briefings that she has received 10:11:23AM
6 about the theories of liability have all been from
7 her lawyers and so all of this, as far as her
8 understanding of these areas, come from that. So
9 object; invades the attorney/client privilege.
10 She may not remember the definitions or 10:11:46AM
11 the numbers, but obviously, there have been long
12 discussions about this with her and --
13 THE WITNESS: Yeah, I definitely don't
14 know the names or the numbers.
15 BY MR. BROWN: 10:12:01AM
16 **Q So let me see if I have any more questions**
17 **along these lines. You should pause if you want and**
18 **give your counsel time to object.**
19 **Are you aware that one of the causes of**
20 **action alleged in the complaint has a fee-shifting 10:12:14AM**
21 **provision for the prevailing party in the case?**
22 MR. ARNS: Excuse me. I doubt she knows
23 what a cause of action is, to start with.
24 Do you know what the term "cause of
25 action" means? 10:12:29AM

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1 THE WITNESS: (Shakes head.) Not in a 10:12:30AM
2 legal context.
3 MR. ARNS: So have you heard of any of
4 this information other than from your lawyers?
5 THE WITNESS: No. 10:12:37AM
6 MR. ARNS: Okay. Object; attorney/client
7 privilege.
8 BY MR. BROWN:
9 **Q So let me see if I can clarify that. And**
10 **again, just wait in case your lawyer wants to 10:12:45AM**
11 **interpose an objection.**
12 **So I think it's possible that last**
13 **question was a little bit cryptic, so are you aware**
14 **that one of the laws that's being alleged in this**
15 **case provides that whoever is the prevailing party 10:13:00AM**
16 **in the case is entitled to get an award of the**
17 **attorneys' fees of the other party in the case?**
18 MR. ARNS: Object; invades the
19 attorney/client privilege.
20 MR. BROWN: And are you instructing her 10:13:23AM
21 not to answer?
22 MR. ARNS: She can answer it if she knows
23 anything about that that wasn't involved with
24 discussions of attorney/client -- within the
25 attorney/client privilege context. 10:13:34AM

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1 THE WITNESS: Yeah, so I have nothing to 10:13:36AM
2 say then.
3 BY MR. BROWN:
4 **Q Do you know what a Facebook friend is?**
5 A I do. 10:13:45AM
6 **Q I figured as much.**
7 **Just in your own words --**
8 **I mean, I think we all understand what it**
9 **is, but in your own words, how would you**
10 **characterize a Facebook friend? 10:13:57AM**
11 A A Facebook friend is a contact in real
12 life who I have become linked with on Facebook.
13 **Q Some of these questions and answers are**
14 **just going to be kind of laborious, so just have to**
15 **kind of bear with me. 10:14:14AM**
16 **Why do you use Facebook?**
17 A I love Facebook. Well, I use it to
18 communicate with friends and business associates and
19 people I know and I use it for inviting people to
20 events, some private events, some public events. 10:14:37AM
21 I love that little IM. Let's see.
22 **Q Meaning instant messaging?**
23 A Yeah.
24 I've done a little location checking in,
25 not that much. Yeah, I -- I think it's an -- I 10:14:56AM

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<p>1 think it's an excellent communications medium and -- 10:15:03AM</p> <p>2 oh, I use the photo stuff a good amount.</p> <p>3 Q I've just got a few follow-up questions on</p> <p>4 that and some of it you may have already covered.</p> <p>5 Do you use it to learn things about what 10:15:25AM</p> <p>6 your friends are doing?</p> <p>7 A Yes.</p> <p>8 Q Do you use it to learn what your friends</p> <p>9 like and what they are interested in?</p> <p>10 A I rarely look at other people's "Like" 10:15:35AM</p> <p>11 lists.</p> <p>12 Q When people --</p> <p>13 When you have -- not people. Strike that.</p> <p>14 When your friends on Facebook "Like"</p> <p>15 things, do you see those "Like" statements show up 10:15:51AM</p> <p>16 in your news feed?</p> <p>17 A Very rarely. I only look at my news feed</p> <p>18 about once a day and so it's just whatever is in</p> <p>19 there.</p> <p>20 And I don't know if my friends are not big 10:16:09AM</p> <p>21 likers or what, but I would say it's -- my friends</p> <p>22 are more like article posters than likers.</p> <p>23 Q So -- yeah, all right. That's useful.</p> <p>24 So one thing that people will share on</p> <p>25 there are, let's say, links to articles that they 10:16:25AM</p> <p style="text-align: right;">Page 30</p>	<p>1 that page. 10:17:32AM</p> <p>2 Q And then when you -- so let's kind of</p> <p>3 break that down.</p> <p>4 So you're unable to post on a Facebook</p> <p>5 page of a band or a company or an organization 10:17:45AM</p> <p>6 unless you "Like" the page first, correct?</p> <p>7 A Yes.</p> <p>8 Q And then once you have "Liked" the page</p> <p>9 and you -- that gives you the ability to post a</p> <p>10 comment on the page? 10:18:06AM</p> <p>11 A Uh-huh, yes.</p> <p>12 Q Then when you post a comment on the page,</p> <p>13 what's your understanding of what happens after</p> <p>14 that?</p> <p>15 A Visitors to that page will see that 10:18:15AM</p> <p>16 comment and it might show up in a news feed and it</p> <p>17 used to show up -- or maybe it still shows up a</p> <p>18 little bit on my page that I made a comment on that</p> <p>19 page, which is like the first couple words of that</p> <p>20 comment. 10:18:37AM</p> <p>21 Q So on the Facebook page of the group or</p> <p>22 the business or the organization that you're trying</p> <p>23 to promote, where does your comment that you posted</p> <p>24 actually show up on the page?</p> <p>25 A It shows up on the wall of the page, but 10:19:03AM</p> <p style="text-align: right;">Page 32</p>
<p>1 like, correct? 10:16:28AM</p> <p>2 A Uh-huh. Yes.</p> <p>3 Q And regardless of what the frequency is,</p> <p>4 you sometimes at least will see in your news feed</p> <p>5 statements that one of your friends "Likes" 10:16:39AM</p> <p>6 something on Facebook, correct?</p> <p>7 A Yes.</p> <p>8 Q And friends can see -- kind of referred to</p> <p>9 this before, but it might be that one of your</p> <p>10 friends has "Liked" a certain page of a company on 10:16:49AM</p> <p>11 Facebook?</p> <p>12 A Yes.</p> <p>13 Q And you said earlier that sometimes you</p> <p>14 will "Like" the page of, let's say, a music group</p> <p>15 that's going to be performing at a festival that is 10:17:04AM</p> <p>16 a client of yours, correct?</p> <p>17 A Yes.</p> <p>18 Q And your understanding is that when you</p> <p>19 click the "Like" button, that your "Like" statement</p> <p>20 is going to then show up in the news feeds of your 10:17:16AM</p> <p>21 friends, correct?</p> <p>22 A I understand that, but that is not why I</p> <p>23 click that "Like" button.</p> <p>24 Q Why do you click the "Like" button?</p> <p>25 A I click the "Like" button so I can post on 10:17:28AM</p> <p style="text-align: right;">Page 31</p>	<p>1 then when other people comment after me it moves 10:19:07AM</p> <p>2 down.</p> <p>3 And in some cases, it only shows up when</p> <p>4 people hit the -- you know, like whatever it is and</p> <p>5 others. So it doesn't show up when you -- when you 10:19:25AM</p> <p>6 just look at the page, you have to hit the owner of</p> <p>7 the page and others to see the comments from other</p> <p>8 people.</p> <p>9 Q So maybe we should just use an example.</p> <p>10 What's a client that you've had that has a page on 10:19:44AM</p> <p>11 Facebook and then you've "Liked" that page in order</p> <p>12 to be able to post comments?</p> <p>13 A Ravi Coltrane, son of John, played at the</p> <p>14 Angel City Jazz Festival last year, and he has a</p> <p>15 page on Facebook. And I "Liked" his page and then I 10:20:02AM</p> <p>16 posted about the show at the Angel City Jazz</p> <p>17 Festival on his page.</p> <p>18 Q Then -- so your understanding is that the</p> <p>19 comments will appear on his page, but then those</p> <p>20 comments will also appear on your wall, as well, 10:20:21AM</p> <p>21 correct?</p> <p>22 A Yeah, usually only the first couple</p> <p>23 letters -- words.</p> <p>24 Q And then if someone is looking at your</p> <p>25 wall, they can, you know, click usually on a 10:20:33AM</p> <p style="text-align: right;">Page 33</p>

Pages 30 to 33

1 **Q And in what way?** 10:25:54AM
2 A Truly, I use LinkedIn much more for
3 professional networking. Sometimes I might look up
4 somebody that I'm working with or thinking about
5 working with on Facebook and occasionally I will 10:26:13AM
6 reach out to a journalist on Facebook. But I would
7 say I -- I've used LinkedIn more for that or e-mail.
8 **Q I think you alluded to this before: You**
9 **use Facebook to share pictures of yourself or your**
10 **activities with your friends?** 10:26:39AM
11 A Yeah. You know, I was more -- I was more
12 on the photo tip a few years ago than I am recently.
13 **Q Sorry, what was that?**
14 A I -- I -- I used the photo -- I -- I was
15 posting more photos in the past than I have 10:26:53AM
16 recently. Like there is a lot of pictures of my
17 wedding. I'm sure you've seen them.
18 **Q Well, hey, you know, I'm just going to let**
19 **that one lie. There is nothing wrong with posting**
20 **pictures of your wedding on Facebook.** 10:27:10AM
21 MR. ARNS: Thank you for that
22 authorization.
23 BY MR. BROWN:
24 **Q So in terms of using Face- --**
25 **So in terms of using Facebook as a -- sort** 10:27:43AM
Page 38

1 **of a marketing tool, at this point in time in the** 10:27:45AM
2 **year 2011, do you feel like using Facebook is**
3 **something that you essentially need to do as a PR**
4 **professional?**
5 MR. ARNS: Excuse me. She already 10:28:02AM
6 testified she rarely uses Facebook for professional
7 communication. Are you talking about those very
8 limited times?
9 MR. BROWN: I don't think that she said
10 she rarely used it for professional communication; I 10:28:12AM
11 think she said for professional networking.
12 MR. ARNS: I have "communication" and as
13 you know, I'm a very fast typist. I'll do another
14 \$5,000 bet if you want.
15 BY MR. BROWN: 10:28:29AM
16 **Q So the question is: Do you consider**
17 **having -- being active on Facebook to be an**
18 **essential tool as a PR person in the year 2011?**
19 MR. ARNS: I'm going to object; asked and
20 answered. She's already said she rarely uses 10:28:45AM
21 Facebook professionally.
22 MR. BROWN: Bob, if you have an objection,
23 the objection is "asked and answered." You don't
24 need to coach the witness how to answer.
25 MR. ARNS: I said, "Object; asked and 10:28:57AM
Page 39

1 answered. She already answered" such and such. 10:28:57AM
2 MR. BROWN: And then you went on to try to
3 include the language that you thought that she used.
4 So the right objection, if you want to make it --
5 you can make your record -- is "asked and answered." 10:29:06AM
6 It's not okay to coach the witness on how she's
7 supposed to respond.
8 MR. ARNS: Well, I don't think I'm really
9 coaching the witness; what I'm doing is citing to
10 the record, and she's already said that. How is 10:29:16AM
11 that coaching?
12 MR. BROWN: It's coaching because you're
13 trying to suggest what her next answer should be and
14 you know better. You've been around for a while.
15 THE WITNESS: I'll -- I'll give you an 10:29:33AM
16 answer.
17 As a communications professional, it is
18 basically a requirement of my job that I have a
19 presence on Facebook, because otherwise what year am
20 I living in? And so, therefore, I -- I do have -- 10:29:45AM
21 you know, have -- have that platform that I use.
22 And, you know, for some of my clients,
23 especially event-related clients, it is a useful
24 tool. But overall, I would say that it is not --
25 that I don't use it for professional uses as much as 10:30:09AM
Page 40

1 e-mail, as much as press release services, as much 10:30:12AM
2 as LinkedIn. I -- I think Twitter has -- has become
3 an important professional tool.
4 BY MR. BROWN:
5 **Q How do you use Twitter to help advance** 10:30:29AM
6 **your clients' interests?**
7 A You know, similarly with how I use
8 Facebook.
9 You know, in the case of jazz festivals,
10 film festivals, you know, going and following all of 10:30:46AM
11 those people or actually setting up a Twitter
12 account for my clients and then having that account,
13 you know, follow all the people that are in the
14 festival and then using -- you know, getting
15 conversations going on Twitter about the festival 10:31:02AM
16 with those people.
17 **Q So with respect to Twitter, if you have a**
18 **client that hires you, will they sometimes hire you**
19 **and one of the services you provide is to basically,**
20 **you know, write up tweets for them and get the word** 10:31:16AM
21 **out about things?**
22 A Yes.
23 **Q Have you ever paid any money to Facebook**
24 **for any purpose?**
25 A No. 10:31:29AM
Page 41

<p>1 Q The service is free for users, correct? 10:31:30AM</p> <p>2 A Yes.</p> <p>3 Q How often do you typically log on to</p> <p>4 Facebook?</p> <p>5 A Monday through Friday, every day. 10:31:39AM</p> <p>6 Q And what about on weekends?</p> <p>7 A Occasionally on weekends on my computer</p> <p>8 and occasionally on weekends on my phone.</p> <p>9 Q And so I was going to ask you that</p> <p>10 question, but we can just jump to that now. 10:31:58AM</p> <p>11 So how do you typically access Facebook?</p> <p>12 Is it from a laptop computer? A desktop computer?</p> <p>13 Phone? Can you just --</p> <p>14 A My -- my laptop is my desktop. I have a</p> <p>15 dock and I typically access it from my laptop. 10:32:12AM</p> <p>16 Q And then occasionally you'll also access</p> <p>17 it from your phone?</p> <p>18 A Yes.</p> <p>19 Q What kind of phone do you have?</p> <p>20 A I have an HTC Droid with the little 10:32:26AM</p> <p>21 keyboard.</p> <p>22 Q So in the time period, you know,</p> <p>23 January 1st, 2011 to present, do you have an</p> <p>24 estimate of how many times you post something on</p> <p>25 Facebook per day? 10:32:52AM</p> <p style="text-align: right;">Page 42</p>	<p>1 window? 10:34:30AM</p> <p>2 A I typically have -- I typically have it by</p> <p>3 itself in its own window, but I have all the other</p> <p>4 things I have open at the bottom and then I can</p> <p>5 maximize them and then they are in their own window. 10:34:46AM</p> <p>6 Q Do you maintain or administer any pages on</p> <p>7 Facebook? It sounds like maybe you do from what you</p> <p>8 said before.</p> <p>9 A I don't think I am right now, but I</p> <p>10 certainly have. 10:35:01AM</p> <p>11 Q What about, for instance, like the Angel</p> <p>12 City Jazz Festival that you mentioned earlier?</p> <p>13 A I -- I -- I think I am an admin on the</p> <p>14 Angel City Arts page. I am an admin on several</p> <p>15 pages on Facebook. 10:35:22AM</p> <p>16 Q Other than --</p> <p>17 Other than the Angel City page that you</p> <p>18 just mentioned, can you recall any of the others</p> <p>19 that you're an admin for?</p> <p>20 A Well, one is for my dog, Cooper, and I 10:35:32AM</p> <p>21 think one is for a book I worked on earlier this</p> <p>22 year and one is for a movie I worked on like two</p> <p>23 years ago.</p> <p>24 And I think I'm still an admin on the</p> <p>25 Artist Film Festival page and I -- I'm an admin on 10:35:54AM</p> <p style="text-align: right;">Page 44</p>
<p>1 A I really have no idea. 10:32:57AM</p> <p>2 Q Any estimate of how many messages you send</p> <p>3 per day using the messaging feature?</p> <p>4 A I really have no idea.</p> <p>5 Q When you're using Facebook using your 10:33:16AM</p> <p>6 laptop, you said you have a dock?</p> <p>7 A Uh-huh.</p> <p>8 Q Okay.</p> <p>9 A Yes.</p> <p>10 Q And do you sometimes also access Facebook 10:33:27AM</p> <p>11 when you're just on your laptop itself, in other</p> <p>12 words, not docked in?</p> <p>13 A If I'm on a business trip and I've just</p> <p>14 taken my laptop, then -- sorry. If I'm on a</p> <p>15 business trip and I've taken my laptop, then I won't 10:33:45AM</p> <p>16 have my dock so then yes.</p> <p>17 Q When the laptop is docked at your desk,</p> <p>18 what kind of screen do you have? Do you use the</p> <p>19 laptop screen or do you have another screen?</p> <p>20 A No, no, I have a -- yeah, that's why I 10:34:00AM</p> <p>21 have a dock. I have a -- I have a rather large,</p> <p>22 nice screen. I don't know what kind.</p> <p>23 Q And when you're using Facebook, are you</p> <p>24 normally using it in a windowed setting where you've</p> <p>25 got multiple windows open or by itself on its own 10:34:27AM</p> <p style="text-align: right;">Page 43</p>	<p>1 the Rhino Records pop-up store page. 10:35:59AM</p> <p>2 And my husband and I are big fans of</p> <p>3 Romanesco and we have a page for Romanesco. It's a</p> <p>4 vegetable like broccoli. Many -- we have like 100</p> <p>5 fans of Romanesco. We got to put up that recipe. 10:36:18AM</p> <p>6 Q So with respect to the book, the movie,</p> <p>7 the film festival, and the Rhino Records page, you</p> <p>8 have admin privileges on those pages because those</p> <p>9 are all clients of yours?</p> <p>10 A Actually, none of them are current 10:36:38AM</p> <p>11 clients, but they all were clients or are things --</p> <p>12 are projects that are on hiatus because they're --</p> <p>13 you know, only happen once a year or what have you.</p> <p>14 Q Maybe this goes without saying, but then</p> <p>15 the Cooper page for your dog and the Romanesco page 10:36:50AM</p> <p>16 I take it have nothing to do with your client base</p> <p>17 or your professional activities?</p> <p>18 A Not at all.</p> <p>19 Q How many Facebook friends do you have</p> <p>20 currently? 10:37:06AM</p> <p>21 A I think I'm closing in on about 1400.</p> <p>22 Q That's a lot of Facebook friends.</p> <p>23 A My -- my personal database that I maintain</p> <p>24 for PR purposes that I've been maintaining for 20</p> <p>25 years has 20,000 people in it. So 1400 is like a 10:37:19AM</p> <p style="text-align: right;">Page 45</p>

1 smallish number if you're me. 10:37:24AM
2 **Q 20,000.**
3 **So in terms of the Facebook friends that**
4 **you have -- I'm just trying to figure out the**
5 **easiest way to ask this question. 10:37:45AM**
6 **So out of these nearly 1400 Facebook**
7 **friends that you have, I take it some of them are**
8 **relatives?**
9 A A few of them are relatives.
10 **Q Some of them are just personal friends? 10:37:59AM**
11 A Many of them are personal friends.
12 **Q Former school classmates?**
13 A A few of them are former school
14 classmates.
15 **Q Work colleagues? 10:38:11AM**
16 A A lot of them are work colleagues.
17 **Q Contacts in your industry and the like?**
18 A Yes.
19 **Q Are you friends with any of the other**
20 **named Plaintiffs in this case? 10:38:24AM**
21 A Nope.
22 **Q Are you friends with any of the lawyers**
23 **working on this case?**
24 A Jonathan and I were friends. We've known
25 each other since 1997. 10:38:36AM
Page 46

1 **Q And you're referring to Jonathan Jaffe? 10:38:38AM**
2 A Uh-huh.
3 **Q How do you typically decide whether to**
4 **accept friend requests or not?**
5 A I -- usually, I really have to know the 10:38:49AM
6 people or I have to have had some kind of
7 interaction with them. Or maybe if they are super
8 cool, even if I don't know them, I'll accept them.
9 MR. ARNS: Like Matt Brown. He would fit
10 that category. 10:39:09AM
11 THE WITNESS: Yes.
12 BY MR. BROWN:
13 **Q Matt Brown and Ravi Coltrane, I think, two**
14 **peas in a pod.**
15 A I ignore a lot of friend requests. 10:39:16AM
16 **Q Do you ever comment on your friends'**
17 **posts?**
18 A I do.
19 **Q Why do you do that?**
20 A Because I have, I hope, something relevant 10:39:30AM
21 to add to the conversation.
22 **Q Depending on what it is, you might be**
23 **discussing some sort of issue?**
24 A Yeah. I mean, certainly that is -- that's
25 something that comes up a lot with -- with my 10:39:54AM
Page 47

1 friends is issues, political issues and economic 10:39:55AM
2 issues and global warming and things like that.
3 **Q And at least in some instances, you may be**
4 **trying to sort of educate or enlighten your friends?**
5 A Yes. 10:40:13AM
6 **Q And at other times might be just something**
7 **humorous or light-hearted?**
8 A Sometimes.
9 **Q So given the amount that you use Facebook,**
10 **I take it you also know what a profile page is? 10:40:40AM**
11 A Yes.
12 **Q Okay.**
13 **And what's sort of your description of**
14 **what a profile page is?**
15 A That's the individual page that people 10:40:47AM
16 have, like my profile page is my page or Jonathan's
17 profile page would be his page.
18 THE WITNESS: You know what, this looks
19 like it's going to get tricky. Can I go to the
20 bathroom -- 10:41:03AM
21 MR. BROWN: Yes.
22 THE WITNESS: -- before we start getting
23 papered?
24 MR. BROWN: Yes.
25 MR. ARNS: Excellent. Yes. 10:41:07AM
Page 48

1 THE VIDEOGRAPHER: Off the record, 10:41:09AM
2 10:41 a.m.
3 (Recess taken.)
4 THE VIDEOGRAPHER: And we are back on the
5 record at 10:58 a.m. 10:58:10AM
6 BY MR. BROWN:
7 **Q Okay.**
8 **So the court reporter just handed you**
9 **what's been marked as Exhibit 1015 and also**
10 **Exhibit 1016. 10:58:21AM**
11 **(Defendants' Exhibit 1015 and**
12 **1016 marked for identification.)**
13 BY MR. BROWN:
14 **Q So looking first at Exhibit 1015, is that**
15 **a printout of your Facebook profile page as of 10:58:28AM**
16 **October 6, 2011?**
17 A Looks like it.
18 **Q And then if you take a look at**
19 **Exhibit 1016, is that essentially another printout**
20 **of your profile page as of October 13, 2011? 10:58:48AM**
21 A Looks like it.
22 **Q So focusing first on Exhibit 1015, so if**
23 **you look over to the left-hand side about midway**
24 **down the page, do you see there it says "Friends"**
25 **and then "(1,341)"? 10:59:12AM**
Page 49

1 BY MR. BROWN: 11:05:10AM
2 **Q And do you remember when you made those**
3 **settings changes?**
4 A I don't. Sometime in the last couple of
5 years. I don't remember. 11:05:23AM
6 **Q And so I'll just ask, to see if we can**
7 **narrow it down a little bit: So to the best of your**
8 **recollection, was it before January 1st, 2011?**
9 A I can't -- I really can't remember.
10 **Q To the best of your recollection, was it 11:05:48AM**
11 **before January 1st, 2010?**
12 A I really don't know.
13 **Q And in your recollection, has it just been**
14 **a single time that you've tried to go make changes**
15 **to your privacy settings? 11:06:00AM**
16 A At the most, two times that I remember.
17 **Q Let me ask you this: After the date that**
18 **the -- that the original complaint was filed in this**
19 **case, have you ever tried to go change your privacy**
20 **settings? 11:06:36AM**
21 MR. ARNS: Object; lack of foundation.
22 THE WITNESS: I turn on Facebook first
23 thing in the morning when I get into my office and I
24 turn it off one of the last things, and I'm doing
25 20 million things every day. I don't know. 11:06:53AM
Page 54

1 BY MR. BROWN: 11:07:00AM
2 **Q Do you believe that you have --**
3 **So we talked earlier that when you "Like"**
4 **something on Facebook, that that statement, "Susan**
5 **von Seggern likes" that thing on Facebook, may 11:07:36AM**
6 **appear in your friends' news feeds, correct?**
7 A It may.
8 **Q When it does appear in your friends' news**
9 **feed, do you believe that you're harmed in any way**
10 **by that? 11:07:50AM**
11 MR. ARNS: Excuse me. You're talking
12 about just news feed when she "Likes" something?
13 MR. BROWN: That's correct.
14 THE WITNESS: Hard to say. I don't know
15 what other people's reactions are. I have many 11:08:06AM
16 friends. They might not always agree with me on
17 political things or matters of musical taste.
18 BY MR. BROWN:
19 **Q The question I was asking was: Do you**
20 **believe that you personally have been harmed in any 11:08:23AM**
21 **way when your "Like" statement appears in your**
22 **friends' news feeds?**
23 A Probably not, but I wouldn't know for
24 sure.
25 **Q And what would it depend on? 11:08:39AM**
Page 55

1 A Perhaps they don't like Dennis Kucinich or 11:08:45AM
2 Barack Obama or Romanesco or jazz, you know, they
3 think jazz is for losers. Then I'm a loser.
4 **Q So let me -- it's possible I may not be**
5 **asking the question the right way. 11:09:03AM**
6 **So the answer you just gave -- let me just**
7 **strike all of that and see if I can ask another**
8 **question.**
9 **So is what you're saying right now that**
10 **you can't be sure whether your friends have suffered 11:09:17AM**
11 **any harm as a result of seeing your "Like" statement**
12 **in their news feed?**
13 A No, I can't be sure whether or not I've
14 suffered any harm because they have seen something
15 I've "Liked" in their news feed that they disagree 11:09:29AM
16 with.
17 **Q Okay. So I think I understand what you're**
18 **saying.**
19 **So I guess my question, then, is: If**
20 **they -- if your friends disagreed with your "Like" 11:09:39AM**
21 **statement that appeared in their news feed, how**
22 **would that result in harm to you?**
23 A Maybe they're thinking about hiring a
24 publicist and they would rather hire a publicist who
25 doesn't like Barack Obama or Romanesco or Ravi 11:09:58AM
Page 56

1 Coltrane. People are influenced by very small 11:10:02AM
2 things these days.
3 **Q And has --**
4 **Have you ever had a situation where**
5 **someone you were Facebook friends with -- strike 11:10:15AM**
6 **that. That was going to be a bad, unintelligible**
7 **question.**
8 **Have you ever had a Facebook friend**
9 **express to you any sentiment like that, that they**
10 **would not want to hire you as a professional based 11:10:31AM**
11 **on the "Like" statement that they saw in their news**
12 **feed?**
13 A No.
14 **Q Are there any other ways in which you --**
15 **well, strike that. 11:10:53AM**
16 **Have you ever suffered any sort of**
17 **economic or financial harm, to your knowledge, by**
18 **"Liking" something on Facebook?**
19 A Not to my knowledge.
20 MR. ARNS: Object. Whoa, whoa, whoa. If 11:11:09AM
21 it appears in a sponsored story versus on the news
22 feed that she's approved?
23 MR. BROWN: Can you just read back the
24 question?
25 MR. ARNS: Okay. Listen very carefully, 11:11:27AM
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<p>1 THE VIDEOGRAPHER: This is the beginning 11:37:43AM</p> <p>2 of Disk Number 2. The time is 11:37 a.m. and we are</p> <p>3 now going back on the record.</p> <p>4 BY MR. BROWN:</p> <p>5 Q How did you first become aware of 11:37:52AM</p> <p>6 sponsored stories?</p> <p>7 A Jonathan brought it up to me.</p> <p>8 Q And when was that?</p> <p>9 A Earlier this year.</p> <p>10 Q Do you remember more specifically when? 11:38:09AM</p> <p>11 A I don't. I'm sorry.</p> <p>12 Q Was it like after March 1st of this year?</p> <p>13 A Yeah, it was definitely in the late spring</p> <p>14 or early summer.</p> <p>15 Q And by "Jonathan," you're referring to 11:38:28AM</p> <p>16 Jonathan Jaffe?</p> <p>17 A Yes.</p> <p>18 Q And what's your understanding of the kinds</p> <p>19 of actions on Facebook that can result in a</p> <p>20 sponsored story? 11:38:39AM</p> <p>21 A Well, I thought it was just "Liking"</p> <p>22 something.</p> <p>23 But in discussions with my attorneys, I've</p> <p>24 found out that it's "Liking" something, checking in,</p> <p>25 "Liking" something on a page not on Facebook. And 11:38:52AM</p> <p style="text-align: right;">Page 70</p>	<p>1 Q Are you aware of whether it was before 11:39:57AM</p> <p>2 January 1st, 2011 or after?</p> <p>3 A I'm not.</p> <p>4 Q And what is your understanding of what</p> <p>5 information about you appears in a sponsored story, 11:40:07AM</p> <p>6 to the extent that there is a sponsored story</p> <p>7 that -- about you?</p> <p>8 A From -- from the one I've seen, it's my</p> <p>9 photograph and my name and that I like -- in the</p> <p>10 case I've seen -- UNICEF, and that -- and then the 11:40:25AM</p> <p>11 sponsored stories I've seen on Facebook, because I</p> <p>12 am a Facebook junkie, you know, it's the name and</p> <p>13 the -- and the -- and the picture, and then</p> <p>14 sometimes it will be more than one person's name or</p> <p>15 picture, so it will be like other people that that 11:40:44AM</p> <p>16 person whose page it appears on knows, and -- and</p> <p>17 most prominently the logo of the advertiser.</p> <p>18 Q And have you seen any of your friends'</p> <p>19 actions on Facebook appear as sponsored stories?</p> <p>20 A I have. 11:41:12AM</p> <p>21 Q When did you first see a sponsored story</p> <p>22 with one of your Facebook friends?</p> <p>23 A I think in the last year.</p> <p>24 Q And approximately how many of those</p> <p>25 sponsored stories have you seen? 11:41:25AM</p> <p style="text-align: right;">Page 72</p>
<p>1 there is a couple of other ones, but I don't 11:38:56AM</p> <p>2 remember what those are.</p> <p>3 MR. ARNS: Again, a lot of this</p> <p>4 information -- because we believe Facebook does not</p> <p>5 explain sponsored stories and doesn't show the 11:39:04AM</p> <p>6 member that they are in a sponsored story, a lot of</p> <p>7 this information comes from the attorneys --</p> <p>8 THE WITNESS: Yeah.</p> <p>9 MR. ARNS: -- which is attorney/client</p> <p>10 privileged, and we are not waiving our 11:39:16AM</p> <p>11 attorney/client privilege with respect to the last</p> <p>12 answer.</p> <p>13 And you're doing fantastically. It's hard</p> <p>14 to march in between that. All of the lawyers know</p> <p>15 that when you're saying, "The lawyer said..." that 11:39:29AM</p> <p>16 it's that type of invasion.</p> <p>17 And I'll cut you off if I want to, okay?</p> <p>18 THE WITNESS: Okay.</p> <p>19 MR. ARNS: But I don't want to get you</p> <p>20 nervous at all about that. 11:39:38AM</p> <p>21 THE WITNESS: Okay.</p> <p>22 BY MR. BROWN:</p> <p>23 Q Do you know when sponsored stories first</p> <p>24 started appearing?</p> <p>25 A I don't, really. Maybe in the last year. 11:39:50AM</p> <p style="text-align: right;">Page 71</p>	<p>1 A Oh, a huge number, because I -- they pop 11:41:26AM</p> <p>2 up all the time.</p> <p>3 Q Any estimate of the number that you've</p> <p>4 seen since you first started seeing sponsored</p> <p>5 stories? 11:41:42AM</p> <p>6 A Well, like -- if I estimate that it's been</p> <p>7 400 days of sponsored stories and I've seen at least</p> <p>8 3 a day, then I would go for -- what's that, 1200?</p> <p>9 I don't really -- I'm one of those</p> <p>10 Internet users who doesn't really look at the -- the 11:42:04AM</p> <p>11 ad space, but, I mean, I do see it sort of off in</p> <p>12 the side of my eye. I'm like, "Oh, right, that's</p> <p>13 some sort of an ad."</p> <p>14 Q When you saw the sponsored stories of --</p> <p>15 involving your friends, what was your reaction to 11:42:22AM</p> <p>16 that?</p> <p>17 A Depends who the friends are and what the</p> <p>18 sponsored story was.</p> <p>19 Recently, I noticed a few friends of mine</p> <p>20 in a sponsored story for Lululemon, which is a yoga 11:42:33AM</p> <p>21 clothing brand. And I -- I remember I had -- I had</p> <p>22 just -- the reason I remember is because I had, just</p> <p>23 the night before, had a discussion with a girlfriend</p> <p>24 of mine. I do a lot of yoga; a lot of my friends do</p> <p>25 yoga. I live in L.A. We all do yoga. She does 11:42:53AM</p> <p style="text-align: right;">Page 73</p>

1	I don't recall, honestly.	11:54:42AM	1	BY MR. BROWN:	11:57:45AM
2	A Late spring, early summer last year --		2	Q Okay. I'm going to point you to a few	
3	this year.		3	specific sections of this.	
4	MR. ARNS: Just --		4	A All right.	
5	MR. BROWN: Well, hang on a second. If	11:54:53AM	5	Q So if you would turn to page 3 and look at	11:57:52AM
6	you have an objection, you can make the objection.		6	Section 7 of paragraph 7. Do you want to just read	
7	But if you're going to try to provide content for		7	paragraph 7 to yourself?	
8	answers, then that's not appropriate.		8	A Uh-huh.	
9	MR. ARNS: She gave a little bit of a		9	Yep, that's me.	
10	different answer before.	11:55:03AM	10	Q Okay.	11:58:14AM
11	MR. BROWN: Well, that's the way it goes,		11	So is the information that's in paragraph	
12	so --		12	7 true?	
13	MR. ARNS: No. It's like, hey --		13	A Yes.	
14	MR. BROWN: I'm warning you, Bob, if		14	Q Okay.	
15	you're going to try to shape the substance of the	11:55:09AM	15	If you would turn to pages 15 to 16, and	11:58:40AM
16	witness's testimony, that's a big problem.		16	specifically paragraphs 70 and 71. And so paragraph	
17	MR. ARNS: You know, this is such an		17	70 begins, "Sometime on or before February 12th,	
18	innocuous item, and if you're proud of yourself		18	2011....," and paragraph 71 starts, "On	
19	that -- of what you just think you have		19	February 12th, 2011...."	
20	accomplished, I'm somewhat surprised.	11:55:21AM	20	Can you just take a minute to read those	11:59:09AM
21	But it ain't right. We have documents		21	to yourself?	
22	that we can show her that will refresh her		22	A Okay.	
23	recollection as to the exact date. She's just		23	Q Did you do anything personally to ensure	
24	giving her best estimate now. Thank you.		24	that this information that was included in	
25	THE WITNESS: And I'm terrible with dates.	11:55:42AM	25	paragraphs 70 and 71 was accurate?	11:59:47AM
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1	I -- living in Los Angeles, everything happens at	11:55:44AM	1	MR. ARNS: Object. Did she do anything	11:59:50AM
2	the same time because it's always warm. It's true.		2	personally such as speak with her lawyers? Are you	
3	It's like, "When did that happen? What year did		3	talking about review this document? She said she	
4	that happen?"		4	hasn't seen the document.	
5	It's really hard. Like in the Northeast,	11:55:54AM	5	THE WITNESS: I definitely haven't seen	12:00:01PM
6	you know when things happen because there is		6	this document.	
7	seasons. And Los Angeles, it's like what? When?		7	BY MR. BROWN:	
8	BY MR. BROWN:		8	Q So the question was: Have you done	
9	Q So when you were considering becoming a		9	anything personally -- well, strike that.	
10	Plaintiff in the lawsuit, did you talk to anyone	11:56:13AM	10	Before this complaint got filed, did you	12:00:10PM
11	else about the lawsuit other than your lawyers or		11	do anything personally to ensure that the	
12	your husband?		12	information here was accurate?	
13	A No.		13	MR. ARNS: I'm going to object as vague	
14	Q What about after the lawsuit was filed?		14	and ambiguous, what is meant by "do anything	
15	A No.	11:56:25AM	15	personally."	12:00:21PM
16	Q I'm handing you what's been previously		16	BY MR. BROWN:	
17	marked as Exhibit 1001.		17	Q You can answer.	
18	MR. ARNS: Thank you.		18	A I spoke to my lawyers.	
19	BY MR. BROWN:		19	Q Do you see how in paragraph 70, it first	
20	Q This is the second amended class action	11:57:22AM	20	says:	12:00:49PM
21	complaint filed in the case.		21	"Sometime on or before	
22	Have you seen this before?		22	February 12th, 2011, Ms. Mainzer	
23	MR. ARNS: Object; asked and answered.		23	clicked on the Facebook 'Like' on	
24	She said she's discussed it with the attorneys		24	the Facebook.com page for UNICEF"?	
25	before. She has not seen it before.	11:57:37AM	25	A I see that.	12:01:01PM
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1 It's impossible. 12:12:32PM
2 **Q Okay. That's -- so let me try asking a**
3 **slightly different question.**
4 **Are there people who you are Facebook**
5 **friends with who you first knew from an earlier 12:12:45PM**
6 **phase in your life, who would know you as Susan**
7 **Mainzer instead of Susan von Seggern? That's really**
8 **the question.**
9 A Yes.
10 **Q Is there any way to give a ballpark 12:12:57PM**
11 **estimate of how many people fall into that category**
12 **of the 1300 plus?**
13 A Probably -- probably more -- oh, it's so
14 tough. At least half, maybe more than half. But
15 that is just an estimate. 12:13:13PM
16 **Q Okay. That's all I'm asking for is an**
17 **estimate.**
18 A It's impossible to figure that out.
19 **Q You're saying at least a half would know**
20 **you by Susan Mainzer, as opposed to Susan von 12:13:23PM**
21 **Seggern? I just want to make sure --**
22 A Or they -- they would -- yeah, they would
23 know that I had been Susan Mainzer.
24 **Q Okay.**
25 A And I have it right on my thing. I say -- 12:13:32PM

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1 the official -- in Exhibit 1015 on page 4, I say on 12:13:35PM
2 my basic information about me: "I used to be Susan
3 Mainzer and also I love L.A." I thought that was a
4 pertinent thing to put in there.
5 MR. ARNS: Can we hire you as a lawyer? 12:13:57PM
6 THE WITNESS: You can hire me as a
7 publicist.
8 Oh, is that -- are you -- am I still on
9 the mic?
10 THE VIDEOGRAPHER: Yeah. 12:14:10PM
11 THE WITNESS: Okay.
12 (Conversation held between witness and counsel
13 outside the hearing of the reporter.)
14 BY MR. BROWN:
15 **Q So if you take a look at Exhibit 1015, 12:14:45PM**
16 **which you were just pointing at --**
17 A Yes.
18 **Q -- I take it that if you look in the first**
19 **page in the upper left-hand corner, that's your**
20 **profile picture, correct? 12:14:54PM**
21 A Yes.
22 **Q And that is you?**
23 A That is me.
24 **Q All right.**
25 **Are there any of your 1300-plus Facebook 12:15:00PM**

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1 **friends who you haven't met in person before? 12:15:03PM**
2 A There is probably a few.
3 **Q Any estimate, just ballpark, on how many**
4 **people fall into that category?**
5 A Very -- I think it's a very small number, 12:15:14PM
6 like maybe 50, but...
7 MR. BROWN: Let's mark this as
8 Exhibit 1017.
9 (Defendants' Exhibit 1017 marked
10 for identification.) 12:15:47PM
11 THE WITNESS: I knew this was going to
12 come up.
13 BY MR. BROWN:
14 **Q So the court reporter has just handed you**
15 **what's been marked as Exhibit 1017. And just take a 12:15:59PM**
16 **minute to just flip through it real quickly so you**
17 **can take a look at the whole document.**
18 **Are these the different profile pictures**
19 **you have used on your Facebook account over the**
20 **years? 12:16:28PM**
21 A Yes.
22 **Q And in the upper left-hand corner, that is**
23 **your current profile picture, correct?**
24 A That is my current profile picture and has
25 been for over three years -- 12:16:43PM

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1 **Q Okay. 12:16:43PM**
2 A -- pretty much solidly except for
3 Doppelganger week.
4 **Q Yeah, so explain what --**
5 **So the first picture in the -- kind of on 12:16:48PM**
6 **the right-hand side of Exhibit 1017, who is that a**
7 **picture of?**
8 A That is Mary-Louise Parker.
9 **Q So do you recall when --**
10 **Was that a profile picture that you used 12:17:03PM**
11 **at one point in time?**
12 A For a couple of days when everybody was
13 putting up their celebrity Doppelgangers, yes.
14 **Q Do you remember when that was, roughly,**
15 **and for how long? 12:17:14PM**
16 A I'm guessing it was January 29th, 2010 and
17 it was probably less than a week. It was probably
18 like two or three days.
19 **Q And other than that picture, are there --**
20 **the rest of the pictures in Exhibit 1017 pictures of 12:17:32PM**
21 **you?**
22 A Yeah, they are all pictures of me.
23 **Q So we talked a little bit earlier about**
24 **different computers and mobile devices that you**
25 **have, so we talked about your laptop, we talked 12:18:31PM**

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1 about your phone. 12:18:34PM
2 Are there any other devices that you have
3 that you use to access Facebook? For instance, an
4 iPad, just as an example.
5 A No. 12:18:46PM
6 Q Just those two?
7 A Sometimes I will look at Facebook on my
8 husband's computer, but then I will be looking at
9 his profile and his news feed.
10 Q All right. 12:18:56PM
11 And what about if you're traveling or
12 otherwise? Do you use public computers to --
13 A Yeah, I usually bring my laptop with me,
14 so I don't typically use public computers.
15 Q So just at a high level, generally 12:19:53PM
16 speaking, what are the different reasons you will
17 "Like" content on Facebook?
18 A If I genuinely like something; if it has a
19 work-related function. Oh, I "Like" a lot of
20 articles that -- that I've placed to support the 12:20:17PM
21 journalist who's written those articles.
22 Q And so when you --
23 The first thing you said, you said
24 sometimes you will "Like" content on Facebook
25 because you genuinely like it. 12:20:40PM
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1 A (Nods head.) 12:20:42PM
2 Q Is another way of saying that that you
3 have an affinity for it? Would you use that term in
4 some way?
5 A That is -- affinity pretty much means 12:20:50PM
6 genuinely liking something, sure.
7 Q And so in addition to having an affinity
8 for something and for promoting a client's
9 business --
10 So those are two reasons, correct? 12:21:04PM
11 A Uh-huh.
12 Q You will also sometimes "Like" things in
13 order to promote your own business, correct?
14 A That's correct.
15 Q And then at times also to promote a cause 12:21:14PM
16 that you're interested in?
17 A That's correct.
18 Q And any other reasons beyond the ones
19 we've just identified that you would "Like" content
20 on Facebook? 12:21:29PM
21 A No, that's pretty much it.
22 Q One of the things that you "Liked" on
23 Facebook was NextAid, correct?
24 A Correct.
25 MR. BROWN: Sorry, I should really spell 12:21:47PM
Page 99

1 that. It's N-E-X-T-A-I-D. 12:21:47PM
2 THE WITNESS: And the second "A" is
3 capitalized.
4 BY MR. BROWN:
5 Q Capital "N" and capital "A," right? 12:21:51PM
6 A Yes.
7 Q And then another thing that you "Liked"
8 was for NextAid 5Alive Campaign for Maternal Health,
9 correct?
10 A That's correct. 12:22:02PM
11 Q And you have been --
12 This is a group you have been involved
13 with for quite some time?
14 A I'm on their board.
15 Q And when did you first join the board, if 12:22:08PM
16 you recall?
17 A I think they formed the board around 2007.
18 I've been -- I've been working with them, though,
19 since 2002.
20 Q And, by the way, it looks like a really 12:22:21PM
21 great organization.
22 A Great organization.
23 Q So can you just --
24 I've looked at the website, but can you
25 just give me, you know, a brief overview of what the 12:22:31PM
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1 organization's mission is? 12:22:33PM
2 A Yes. NextAid is a group that provides
3 sustainable -- ecologically-sustainable solutions
4 for vulnerable children and women in Africa.
5 Q And so in addition to having "Liked" the 12:22:47PM
6 main NextAid page and another piece of content
7 regarding NextAid, you will sometimes post on the
8 NextAid wall, correct?
9 A I will.
10 Q Do you have sort of admin rights to that 12:23:00PM
11 page or not?
12 A I don't think I do. I -- I -- I used to
13 be an admin on the NextAid cause page, but the
14 causes is so -- I don't know what they are doing
15 over there that I don't -- I don't even know if I 12:23:15PM
16 still have that.
17 Q All right.
18 And you will sometimes tweet about
19 NextAid, as well?
20 A Absolutely, yes. 12:23:27PM
21 Q And I take it that when you're trying
22 to --
23 So one of the reasons that you've "Liked"
24 NextAid is because it's a cause that you care about
25 and you're trying to promote that cause, right? 12:23:39PM
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Pages 98 to 101

<p>1 A Deeply believe in, work very hard on, yes. 12:23:41PM</p> <p>2 Q And I take it that when you're trying to</p> <p>3 propose -- let me get the dentures back in.</p> <p>4 When you're trying to promote a cause like</p> <p>5 NextAid, you're trying to really get the word out 12:23:56PM</p> <p>6 and increase the visibility as much as possible,</p> <p>7 correct?</p> <p>8 A Absolutely, and ideally raise money.</p> <p>9 Q That's always the case for nonprofits,</p> <p>10 right? 12:24:07PM</p> <p>11 A Yes.</p> <p>12 Q Then on Facebook, if you "Like" an</p> <p>13 organization like NextAid and your friends then get</p> <p>14 wind of it, there can be sort of a viral effect,</p> <p>15 right, where they can then -- if they are 12:24:25PM</p> <p>16 interested, they can go "Like" that page, as well,</p> <p>17 and then that gets introduced to their set of</p> <p>18 friends, as well?</p> <p>19 A Ideally.</p> <p>20 Q And basically, it's part of an overall 12:24:40PM</p> <p>21 kind of campaign to sort of educate your friends and</p> <p>22 enlighten them as to the organization's mission,</p> <p>23 essentially?</p> <p>24 A And to raise money, yes.</p> <p>25 Q All of those things, right -- 12:24:54PM</p> <p style="text-align: right;">Page 102</p>	<p>1 Exhibit 1018. 12:28:14PM</p> <p>2 (Defendants' Exhibit 1018 marked</p> <p>3 for identification.)</p> <p>4 BY MR. BROWN:</p> <p>5 Q So this is, I guess, a group exhibit, for 12:28:27PM</p> <p>6 lack of a better term. So this exhibit consists of</p> <p>7 the following Bates-numbered pages produced by the</p> <p>8 Plaintiffs: FACEBOOK 2842, -4862, -2849, -4865,</p> <p>9 -2854, -4868, -2858, -2860, -2873, and -2975.</p> <p>10 So we'll run through this quickly. 12:29:25PM</p> <p>11 A Okay.</p> <p>12 Q So if you take a look at the first page of</p> <p>13 this exhibit --</p> <p>14 Just to give you some context here so --</p> <p>15 I'm not trying to hide the ball or anything here. 12:29:34PM</p> <p>16 These are just a bunch of pages that have, you know,</p> <p>17 different communications and the like about NextAid.</p> <p>18 A Okay.</p> <p>19 Q So it's hard to tell just looking at them</p> <p>20 on their face, but we'll just run through it real 12:29:49PM</p> <p>21 quickly.</p> <p>22 A Okay.</p> <p>23 Q So if you look at the first page on</p> <p>24 Exhibit 1018, which is -2842, this is a printout</p> <p>25 from your Facebook account, correct? 12:30:02PM</p> <p style="text-align: right;">Page 104</p>
<p>1 A Yes. 12:24:56PM</p> <p>2 Q -- at the end of the day.</p> <p>3 And you -- all right. So -- strike that.</p> <p>4 Bear with me for one second.</p> <p>5 A Uh-huh. 12:25:13PM</p> <p>6 Q Just bear with me, please.</p> <p>7 (Conversation held between</p> <p>8 witness and counsel outside the</p> <p>9 hearing of the reporter.)</p> <p>10 THE WITNESS: I kind of look like her, 12:27:47PM</p> <p>11 right?</p> <p>12 MR. JAFFE: You do.</p> <p>13 MR. ARNS: Totally.</p> <p>14 THE WITNESS: If I was -- I mean, if I was</p> <p>15 thinner, really. If I was like... 12:27:52PM</p> <p>16 MR. JAFFE: Do you know the high school</p> <p>17 students where -- there is a week or so where they</p> <p>18 were all putting up cartoon images of themselves.</p> <p>19 These things apparently go around.</p> <p>20 THE WITNESS: Yeah, yeah, they go around, 12:28:05PM</p> <p>21 exactly.</p> <p>22 People used to tell me that I look like</p> <p>23 Julia Louise Roberts [sic]. Remember from</p> <p>24 Seinfeld? Elaine from Seinfeld.</p> <p>25 MR. BROWN: Let's mark this as 12:28:13PM</p> <p style="text-align: right;">Page 103</p>	<p>1 A Yes. 12:30:03PM</p> <p>2 Q And if you take a look about halfway down</p> <p>3 the page, you see a post by you:</p> <p>4 "...Leading Yoga Teachers [to]</p> <p>5 Join to Benefit @NextAid in 'beats 12:30:14PM</p> <p>6 EMBODIED build HOPE' at YogaWorks -</p> <p>7 Soho - New York City,</p> <p>8 October 15th."</p> <p>9 Correct?</p> <p>10 A Yep. Yes. 12:30:30PM</p> <p>11 Q And so was this something that you posted</p> <p>12 on your Facebook page or on the NextAid Facebook</p> <p>13 page or was it something else?</p> <p>14 A This was actually something I posted on</p> <p>15 Twitter. And I have my Twitter linked to my 12:30:42PM</p> <p>16 Facebook page, so anything I post on my Twitter feed</p> <p>17 goes onto my Facebook page. And this was something</p> <p>18 I posted on Twitter that was then posted on my</p> <p>19 Facebook page.</p> <p>20 Q So essentially, you were trying to get the 12:30:54PM</p> <p>21 word out using Twitter about this event in New York,</p> <p>22 and something you just basically do across the board</p> <p>23 is whenever you tweet something on Twitter, it</p> <p>24 automatically gets posted on your Facebook page, as</p> <p>25 well? 12:31:10PM</p> <p style="text-align: right;">Page 105</p>

Pages 102 to 105

1 exhibit. 12:41:29PM
2 A Can I make a comment?
3 Q Sure.
4 A Given how -- how passionate I am about
5 NextAid, you can see where I might not want my name 12:41:44PM
6 to be used in connection with other charities.
7 That's all.
8 Q All right.
9 So are there any other charitable
10 organizations that you promote yourself? 12:41:58PM
11 A Yes. I work with a group called Wells
12 Bring Hope.
13 Q Wells Bring Hope?
14 A Hope.
15 Q And what's the "wells" refer to? 12:42:06PM
16 A Like digging wells, water wells, drilling
17 wells.
18 Q Any other groups -- charitable groups that
19 you personally work with?
20 A Those are the two big ones. 12:42:17PM
21 Q Are either of those groups also clients?
22 A They are pro bono clients.
23 Q In other words, you're not charging them
24 for your PR services?
25 A Right. 12:42:30PM

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1 Q Beyond those two that you personally work 12:42:33PM
2 with, you have got other nonprofit or charitable
3 organizations who you've "Liked" on Facebook,
4 correct?
5 A Yes, but those are the only two that I 12:42:44PM
6 really want people to give money to. I'm happy if
7 people give money to UNICEF, like, "God, give money
8 to UNICEF," but I want people to give money to
9 NextAid and Wells Bring Hope.
10 Q So when you "Liked" UNICEF in order to 12:43:07PM
11 sort of promote their campaign at that time, I take
12 it that you were fine if people wanted to donate
13 money to UNICEF in order to support that campaign,
14 correct?
15 A I don't think I really thought about it. 12:43:29PM
16 I just thought about it as me going, "Yeah, sure,
17 UNICEF, right on."
18 Q And in that campaign that they were
19 undertaking at the time to reduce childhood deaths.
20 A I -- I don't -- I don't 100 percent 12:43:43PM
21 recall, but I somewhat slightly recall that I think
22 if you "Liked" them, they actually got a dollar from
23 some matching donor. And that was what really
24 prompted me to take that action.
25 MR. BROWN: Okay. I think this is a good 12:44:01PM

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1 time to break for lunch. 12:44:03PM
2 THE VIDEOGRAPHER: This is the end of Disk
3 Number 2. The time is 12:44 p.m. and we are now
4 going off the record.
5 (Lunch recess taken.) 12:44:12PM
6 THE VIDEOGRAPHER: This is the beginning
7 of Disk Number 3. The time is 1:51 p.m. and we are
8 now going back on the record.
9 BY MR. BROWN:
10 Q So one reason that you said that you would 1:51:57PM
11 sometimes "Like" certain content on Facebook was to
12 help promote your own business, correct?
13 A Yeah, sometimes.
14 Q Okay.
15 And so in what way does clicking on the 1:52:08PM
16 "Like" button for certain content accomplish that
17 objective?
18 A You know, let's say I've gotten a story
19 for one of my clients on, you know, some kind of big
20 media, like the New York Times. So I click on 1:52:24PM
21 "Like" for that story.
22 It goes on my wall, you know, "Tia's
23 Bakery in New York Times story," or -- or it says --
24 it has the New York Times story and then I write in
25 the comments, "We got Tia's Bakery in this story on 1:52:41PM

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1 gluten-free bakeries in the New York Times." 1:52:42PM
2 And then maybe somebody going to my page
3 will go, "Oh, wow, Susan got something in the New
4 York Times. She must know what she's doing."
5 Q I see. I see. 1:52:54PM
6 So Tia's Bakery in your example being a
7 client of yours?
8 A Yes.
9 Q Okay.
10 And are there any other ways that you can 1:53:03PM
11 use the "Like" button to promote your business?
12 A Well, it's not really promoting my
13 business, but it's -- like in smaller media -- like
14 say Examiner, you know, has zillions of those
15 columnists who write the Examiners or About, has all 1:53:18PM
16 the -- zillions of people.
17 You know, they have "Like" buttons, so if
18 I have something in -- in one of their stories or
19 even if I don't, but I just like their story, I can
20 "Like" that and then it will show up on my page. 1:53:31PM
21 And then they will be happy because they
22 are getting the exposure and then also they are
23 getting, you know -- I think -- I think that
24 Examiner and About and some other businesses like
25 that kind of track which of their journalists -- 1:53:45PM

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<p>1 actually, the New York Times and the L.A. Times do, 1:53:48PM</p> <p>2 too -- track which of their journalists are</p> <p>3 getting -- and CNN.com does it, too -- are getting</p> <p>4 the most "Likes" and -- and then, you know, they're</p> <p>5 choosing which journalists to assign what stories to 1:54:01PM</p> <p>6 or promote or keep or what have you.</p> <p>7 And so it's just me being supportive of my</p> <p>8 journalist friends and then it makes them like me</p> <p>9 or, you know, think well of me and -- or, you know,</p> <p>10 so that next time I pitch them, they're like, "Oh, 1:54:17PM</p> <p>11 right, last time" -- or "Susan 'Liked' that story I</p> <p>12 did, so she's pitching me now, so maybe I should</p> <p>13 listen to her pitch more."</p> <p>14 Very subtle, tiny things these days. I</p> <p>15 mean, it's -- you know, it used to be big things and 1:54:29PM</p> <p>16 big favors and -- and now everything is so parsed</p> <p>17 into little tiny, tiny things. The reputation</p> <p>18 economy I believe it's called.</p> <p>19 Q In the example you gave before where you</p> <p>20 were able to get Tia's Bakery into a New York Times 1:54:42PM</p> <p>21 article and then you -- so you "Liked" that article</p> <p>22 and then that shows up on your wall --</p> <p>23 So what I just said is accurate, right,</p> <p>24 that that's what would happen?</p> <p>25 A Uh-huh. Uh-huh. 1:55:00PM</p> <p style="text-align: right;">Page 118</p>	<p>1 And because I "Like" a story in the New 1:56:11PM</p> <p>2 York Times doesn't mean I want to promote the New</p> <p>3 York Times; it just means I'm promoting that story</p> <p>4 in the New York Times.</p> <p>5 And if I'm promoting anything, because 1:56:27PM</p> <p>6 I -- promoting things is what I do for a living, I</p> <p>7 should get paid, and I'm not getting paid to promote</p> <p>8 the New York Times.</p> <p>9 Q And is it your understanding that if you</p> <p>10 were to "Like" that article in the New York Times 1:56:41PM</p> <p>11 that mentioned Tia's Bakery, that the resulting</p> <p>12 sponsored story, if there was one, would say, "Susan</p> <p>13 von Seggern likes the New York Times," or would it</p> <p>14 say, "Susan von Seggern likes this article," or</p> <p>15 would it say something different? 1:57:03PM</p> <p>16 A I mean, in the sponsored stories that I've</p> <p>17 seen on the ad section of my page, they just say,</p> <p>18 "Susan Von Seggern likes" -- or "Joe Schmoe likes</p> <p>19 X." They don't break it down further that I've</p> <p>20 seen. 1:57:17PM</p> <p>21 Q Okay.</p> <p>22 But -- so just --</p> <p>23 I'm just going to ask you to assume</p> <p>24 something for the sake of my next question. So</p> <p>25 assume that the sponsored story that came after you 1:57:26PM</p> <p style="text-align: right;">Page 120</p>
<p>1 Q Yes? 1:55:01PM</p> <p>2 A Oh, yes. Sorry. Sorry. Out of practice.</p> <p>3 Sorry.</p> <p>4 Q That's okay.</p> <p>5 So you understand, though, that that 1:55:10PM</p> <p>6 "Like" could potentially end up getting -- that</p> <p>7 story that's generated from that "Like" could end up</p> <p>8 being sponsored and become a sponsored story,</p> <p>9 correct?</p> <p>10 A Yeah. I didn't really understand that 1:55:26PM</p> <p>11 until my lawyers informed me that that was something</p> <p>12 that could trigger a sponsored story.</p> <p>13 Q But you understand that now?</p> <p>14 A I do understand that now.</p> <p>15 Q And so in an instance like that, to the 1:55:36PM</p> <p>16 extent that that same story shows up again as a</p> <p>17 sponsored story maybe once, maybe more than once,</p> <p>18 that actually increases the visibility of your</p> <p>19 success in getting Tia's Bakery into the New York</p> <p>20 Times article, correct? 1:55:53PM</p> <p>21 A Yes, or it increases the people who</p> <p>22 absolutely hate the New York Times and think the New</p> <p>23 York Times is an instrument of the CIA and</p> <p>24 oppression, that they are like, "Oh, Susan likes the</p> <p>25 New York Times? I don't want to work with Susan." 1:56:08PM</p> <p style="text-align: right;">Page 119</p>	<p>1 had "Liked" the New York Times article said, "Susan 1:57:29PM</p> <p>2 von Seggern likes this article," in contrast to it</p> <p>3 saying, "Susan von Seggern likes the New York</p> <p>4 Times," more generally.</p> <p>5 Would you agree that by virtue of having 1:57:42PM</p> <p>6 that story show up in the right-hand side of the</p> <p>7 screen, that you're simply getting more visibility</p> <p>8 for your "Like" of the article than you would simply</p> <p>9 having it in your wall?</p> <p>10 A It would be giving more visibility to that 1:58:06PM</p> <p>11 story, but that's a terrible hypothetical because it</p> <p>12 wouldn't happen like that unless change -- you --</p> <p>13 unless Facebook changes the way they do -- do that.</p> <p>14 That's not -- it's -- it's not a good hypothetical.</p> <p>15 But, yes, if -- if Facebook changed the 1:58:23PM</p> <p>16 way they -- they handle the sponsored stories to be</p> <p>17 more specific, it would put more attention to that</p> <p>18 story.</p> <p>19 Q Would you ever --</p> <p>20 Would you ever "Like" a page on Facebook? 1:58:39PM</p> <p>21 Not like a story on another website that has a</p> <p>22 "Like" button, but -- actually, let me just withdraw</p> <p>23 that. It was going to end up being a very, very</p> <p>24 long question.</p> <p>25 Would you ever "Like" a page on Facebook 1:58:55PM</p> <p style="text-align: right;">Page 121</p>

<p>1 for the purpose of, you know, enhancing your own 1:58:59PM 2 reputation as a PR professional or helping your 3 business out? 4 A Yes. 5 Q And do you have -- 1:59:12PM 6 Can you give me an example of -- 7 A Well, like I "Like" Tia's Bakery on 8 Facebook. 9 Q And then once you "Like" the Tia's Bakery 10 page, in what way does doing that going to help your 1:59:22PM 11 business as a PR person? 12 A Well, it's just -- it's just -- you know, 13 being a body, it's just being another -- you know, 14 instead of 18 people liking Tia's Bakery, 19 people 15 like Tia's Bakery. 1:59:39PM 16 And then also I could go on the Tia's 17 Bakery page and say, "Oh, my God, have you tried the 18 black bean brownie? It's out of this world." It 19 is, by the way. 20 So -- but it's more -- truly, it's more -- 1:59:50PM 21 I would -- I would "Like" a client's page so that I 22 can post on that page, not necessarily -- I'm trying 23 to think if there was a case of something where I 24 would "Like" something to enhance my reputation as a 25 publicist. 2:00:06PM</p> <p style="text-align: right;">Page 122</p>	<p>1 A Yes. 2:01:22PM 2 Q And when that does happen and that 3 statement shows up in your Facebook friends' news 4 feeds, that is a way of getting the word out about 5 Tia's Bakery, right? 2:01:38PM 6 A In news feeds, absolutely. 7 Q Then to the extent that that "Like" 8 statement, that story in your friends' news feed, 9 was to get sponsored by Tia's Bakery and would then 10 show up as a sponsored story on the right-hand side 2:01:56PM 11 of the screen, that would further enhance the 12 visibility -- 13 A Well, Tia's Bakery is a client of mine, so 14 that's maybe not a great example. 15 But let's say Tia's Bakery was not a 2:02:06PM 16 client of mine, what -- what benefit do I get from 17 that sponsored story? 18 Q Let's stick with -- 19 Let's stick with the hypothetical of Tia's 20 Bakery for a second. 2:02:18PM 21 A Oh, okay. 22 Q So you "Like" the -- 23 Well, actually, this part is not a 24 hypothetical, right? You said that you have 25 "Liked" -- 2:02:26PM</p> <p style="text-align: right;">Page 124</p>
<p>1 I mean, maybe if -- like I like "Help a 2:00:08PM 2 Reporter Out," which is a PR services e-mail. So 3 because I'm a smart enough publicist to "Like" this 4 PR service's e-mail service and I "Like" their page 5 on Facebook, that might reflect well on me as a 2:00:26PM 6 publicist. 7 Q For other people who you are Facebook 8 friends who know that you're a publicist, for 9 instance? 10 A Yeah, but it's -- it's a pretty limited... 2:00:35PM 11 Q Well, so in the example where you "Like" 12 the Tia's Bakery page, though, once you "Like" the 13 page, you understand that then the statement that 14 you like Tia's Bakery is going to show up in your 15 friends' news feed, right? 2:00:56PM 16 A Yeah, although I kind of disagree with 17 that. You know, I hit a button that said I liked 18 Tia's Bakery; I didn't say I like Tia's Bakery. 19 There is a difference. 20 Q But you have used Facebook a long -- 2:01:09PM 21 since, what, 2007 now, right? 22 A Yeah. 23 Q So you understand that when you do hit the 24 "Like" button, that's how Facebook is designed? 25 That's what happens, right? 2:01:19PM</p> <p style="text-align: right;">Page 123</p>	<p>1 A I'm pretty sure I have "Liked" Tia's 2:02:26PM 2 Bakery, yeah. 3 Q And so my question is: If Tia's Bakery 4 were to -- were to have a sponsored story campaign 5 and were to pay in order to have stories about its 2:02:39PM 6 own business sponsored and have the visibility of 7 those stories boosted, that does, in fact, increase 8 the visibility of that company, correct? 9 A It does, but Tia's Bakery is paying me to 10 increase their visibility. There are many sponsored 2:02:59PM 11 stories about -- or at least there are at least four 12 sponsored stories that I've been in where those 13 companies, organizations, are not paying me to 14 increase their visibility. 15 Q But in the hypothetical where Tia's Bakery 2:03:11PM 16 pays to have sponsored stories, that payment is from 17 Tia's Bakery to Facebook, not from Tia's Bakery to 18 you, right? 19 A Right. But as their publicist, if I do a 20 "Like" and that results in a sponsored story, that's 2:03:29PM 21 a good example of me doing my job. 22 I mean, a lot of PR is -- especially these 23 days is, you know, echo chamber amplification. So 24 that's a case of because I'm Tia's Bakery's 25 publicist, I "Like" Tia's Bakery. The echo chamber 2:03:45PM</p> <p style="text-align: right;">Page 125</p>

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<p>1 [REDACTED] 2 [REDACTED] 3 [REDACTED] 4 [REDACTED]</p> <p>5 Q Do you understand that sponsored stories 2:09:59PM 6 only appear to people who are your Facebook friends, 7 that that's the largest audience it could 8 potentially be?</p> <p>9 A I -- I do understand that.</p> <p>10 Q So to the extent that you do appear in a 2:10:15PM 11 sponsored story, it's only being shown to the people 12 who originally saw that same "Like" statement in 13 their news feeds, correct?</p> <p>14 A Well, not necessarily. They -- they might 15 not have seen it. It's not -- you know, the news 2:10:30PM 16 feed stuff is -- is -- is tiny and over here and the 17 ad stuff is big and over here and the -- the news 18 feed stuff moves down really quickly.</p> <p>19 I mean, I -- I -- as somebody who deals 20 with -- with moving information around, I don't even 2:10:50PM 21 consider that anything I post is going to go into 22 anybody else's news feed, because it's that 23 insignificant to what I do.</p> <p>24 And -- and most people -- I mean, NextAid 25 is a great example. I mean, Lauren is always like, 2:11:08PM</p> <p style="text-align: right;">Page 130</p>	<p>1 getting taken out of the running for potential 2:12:20PM 2 business because of whose page it's shown up on, 3 since I have no control over where it shows up. 4 MR. BROWN: Bear with me as I look over my 5 notes. You have to trust me on this that even 2:12:59PM 6 though there is some pauses here, it actually ends 7 up making the whole deposition shorter if I can 8 exercise some judgment about what lines of 9 questioning I'm asking.</p> <p>10 So mark this as 1019. 2:13:23PM 11 (Defendants' Exhibit 1019 marked 12 for identification.)</p> <p>13 BY MR. BROWN: 14 [REDACTED] 15 [REDACTED] 16 [REDACTED] 17 [REDACTED] 18 [REDACTED] 19 [REDACTED] 20 [REDACTED] 21 [REDACTED] 22 [REDACTED] 23 [REDACTED] 24 [REDACTED] 25 [REDACTED]</p> <p style="text-align: right;">Page 132</p>
<p>1 "Well, but if you post it, then doesn't it go in 2:11:11PM 2 lots of people's news feeds?" I'm like, "Barely," 3 you know. 4 It -- it's not -- it's not a 5 significant -- it's not what I would consider like a 2:11:17PM 6 placement, like getting an article somewhere. It's 7 not. It's just -- it's -- it's too random and it's 8 too small.</p> <p>9 Q So even though -- 10 Is it your testimony that even though it's 2:11:31PM 11 the same "Like" statement and the same name and 12 profile picture that appears in your friends' news 13 feeds, as well as appears in the sponsored story 14 that also appears to those same friends, that there 15 is a harm to you as a result of the appearance in a 2:11:53PM 16 sponsored story?</p> <p>17 A Well, I disagree with your statement. I 18 don't think it's the same and, yes, I do think there 19 is harm.</p> <p>20 Q Okay. 2:12:03PM 21 MR. ARNS: Do you want to describe the 22 harms? 23 THE WITNESS: Oh, yeah. 24 And the harms are I'm not getting 25 compensated and there might be situations where I am 2:12:12PM</p> <p style="text-align: right;">Page 131</p>	<p>1 [REDACTED] 2 [REDACTED] 3 [REDACTED] 4 [REDACTED] 5 [REDACTED] 6 [REDACTED] 7 [REDACTED] 8 [REDACTED] 9 [REDACTED] 10 [REDACTED] 11 [REDACTED] 12 [REDACTED] 13 [REDACTED] 14 [REDACTED] 15 [REDACTED] 16 [REDACTED] 17 [REDACTED] 18 [REDACTED] 19 [REDACTED] 20 [REDACTED] 21 [REDACTED] 22 [REDACTED] 23 [REDACTED] 24 [REDACTED] 25 [REDACTED]</p> <p style="text-align: right;">Page 133</p>

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<p>1 "Like" button on Facebook even after learning that 2:24:26PM 2 clicking on the "Like" button can result in 3 sponsored stories appearing to your friends? 4 A Yes. 5 Q And just to be clear -- it probably went 2:24:49PM 6 without saying in that question -- but you've 7 continued to click on the "Like" button knowing that 8 your name and profile picture would appear in the 9 sponsored story that's shown to your friends? 10 MR. ARNS: Object; calls for speculation. 2:25:03PM 11 She doesn't know if an advertiser has paid for a 12 sponsored story or any product. Nobody ever knows 13 but you. 14 BY MR. BROWN: 15 Q You can answer. 2:25:17PM 16 A It's only been in the last week that I was 17 informed by my lawyers that -- 18 MR. ARNS: What -- by your lawyers? 19 THE WITNESS: By my lawyers, you guys. 20 MR. ARNS: Yes. Object; attorney/client 2:25:28PM 21 privilege. 22 THE WITNESS: Yeah, yeah, yeah. It's -- 23 it's only been the last week that I've been informed 24 by my lawyers the volume of -- of times that I've 25 appeared in the sponsored stories. So it's only -- 2:25:37PM</p> <p style="text-align: right;">Page 138</p>	<p>1 MR. ARNS: I'm sorry for interrupting. 2:27:15PM 2 I'm going to go in the other room for a second. No 3 need to go off calendar -- off the record. It's all 4 right to go in that room? 5 MR. BROWN: Yes. 2:27:32PM 6 BY MR. BROWN: 7 Q So again, with respect to UNICEF, so your 8 understanding is that your name and profile picture 9 appeared in the sponsored story for UNICEF? Is that 10 your understanding? 2:28:12PM 11 A Yes. 12 Q And if that is true, in what way were you 13 harmed by that, if any? 14 A I wasn't compensated for my name and my 15 likeness being used. I wasn't asked if I wanted my 2:28:30PM 16 name to be used in -- in that story, because if I 17 had been asked I would have said no. 18 Because I want -- when -- when -- when my 19 image is appearing with charities, I want those 20 charities to be NextAid and Wells Bring Hope. 2:28:50PM 21 And, you know, highly unlikely, but if 22 somebody hated UNICEF, they could possibly have 23 decided not to hire me based on that I "Liked" 24 UNICEF. 25 Q Realistically speaking, do you think that 2:29:07PM</p> <p style="text-align: right;">Page 140</p>
<p>1 I -- I didn't really understand the extent of it 2:25:41PM 2 until very recently. 3 BY MR. BROWN: 4 Q All right. 5 But you continue to click on the "Like" 2:25:47PM 6 button on Facebook even after knowing that by 7 clicking on the "Like" button, it could be the case 8 that your name and profile picture would appear in a 9 sponsored story to your friends? 10 A I'm a communications professional and in 2:26:05PM 11 certain situations, like all the artists on the 12 Angel City Jazz Festival or prominent articles, it's 13 really necessary for my -- for my profession that I 14 appear, you know, up to date in what's going on and, 15 you know, in the -- in the mode of communications in 2:26:28PM 16 our culture, and also, for the Angel City Jazz 17 Festival, specifically needed to "Like" those pages. 18 So, yes, I did continue to "Like" those 19 pages, but it's part of -- it's part of my 20 professional job to do so. 2:26:49PM 21 Q But is the answer to my question that I 22 asked "yes"? 23 A Yes. 24 Q Okay. So let's turn to just another 25 subject. 2:27:14PM</p> <p style="text-align: right;">Page 139</p>	<p>1 there is anyone out there that -- 2:29:08PM 2 A Only somebody who is very mean. 3 Q Let me just finish the question. 4 A Sorry. 5 Q I mean, I know what your answer is going 2:29:17PM 6 to be, but let me just ask the question. 7 Do you know of anyone out there that 8 affirmatively hates UNICEF, though? 9 A I -- 10 MR. JAFFE: Objection; calls -- 2:29:27PM 11 THE WITNESS: I don't know anybody who 12 hates UNICEF -- 13 BY MR. BROWN: 14 Q So, I mean -- 15 A -- that I know of. 2:29:31PM 16 Q Okay. 17 But would you agree that -- 18 Would you agree that it's highly unlikely 19 for any of your friends on Facebook to actually 20 think less of you because you appeared in a 2:29:42PM 21 sponsored story supporting UNICEF? 22 A It is possible that my fellow NextAid 23 board members or Wells Bring Hope compatriots who 24 don't understand sponsored stories and how they -- 25 how they work and how they come to be might wonder 2:30:09PM</p> <p style="text-align: right;">Page 141</p>

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1 "Q If you had friends who 9:40:44AM
 2 wanted to sing the praises of
 3 NextAid because they think it's
 4 a great organization and support
 5 what they do and, therefore, 9:40:44AM
 6 'like' NextAid on Facebook, do
 7 you think NextAid should pay
 8 each one of those individuals
 9 who 'likes' NextAid?")
 10 THE WITNESS: Yeah, I -- I -- I agree with 2:54:43PM
 11 him, it's a hypothetical and it's not -- it's not a
 12 good hypothetical. It's a -- it's a -- it's a
 13 hypothetical that wouldn't happen.
 14 I mean, A, NextAid is not buying Facebook
 15 ads, and B, we have lots of people who -- who are 2:54:53PM
 16 genuinely celebrities in a certain circle and they
 17 support NextAid out of the goodness of their heart
 18 because it's a charity.
 19 I -- I -- I would love to know what the
 20 other three -- the other three sponsored stories I 2:55:07PM
 21 was -- I was in were, because I don't -- I mean,
 22 because that's more the -- the meat of the issue is
 23 not the -- the charities, it's the commercial
 24 operations.
 25

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1 BY MR. BROWN: 2:55:26PM
 2 **Q So speaking of the other three**
 3 **organizations that you believe had sponsored stories**
 4 **running that you appeared in --**
 5 A Uh-huh. 2:55:39PM
 6 **Q -- is there any way for us to know what**
 7 **those are other than just talking to your lawyers?**
 8 A You can ask Facebook.
 9 **Q Well, I mean, is there anything you could**
 10 **do to figure out what those other three are?** 2:55:50PM
 11 A Not that I know of. Just problematic.
 12 MR. JAFFE: Facebook has that information.
 13 We don't have it.
 14 BY MR. BROWN:
 15 **Q I thought earlier you told me that your 2:56:09PM**
 16 **understanding was that there -- you appeared in**
 17 **sponsored stories for three other organizations or**
 18 **companies other than UNICEF.**
 19 **Is that correct?**
 20 A That is -- that is my understanding from 2:56:25PM
 21 talking to my lawyers, yes.
 22 MR. JAFFE: Mr. Brown, we have ad IDs, but
 23 we don't have any information from Facebook as to
 24 what the ad ID matches in terms of the advertiser.
 25 So we don't actually have that information. 2:56:37PM

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1 We do know that she's appeared in four 2:56:39PM
 2 different ads from discovery we've received.
 3 MR. BROWN: Just give me a moment to take
 4 a look at my notes.
 5 MR. JAFFE: May I make a correction to 2:57:16PM
 6 that?
 7 MR. BROWN: Yes.
 8 MR. JAFFE: It's actually 11 ads. It's 11
 9 ads.
 10 THE WITNESS: Wow. 2:57:22PM
 11 MR. ARNS: One of the things is that the
 12 member doesn't know because they don't go to their
 13 page.
 14 THE WITNESS: Or they don't ask them if
 15 they can do that. 2:57:33PM
 16 BY MR. BROWN:
 17 **Q Do you believe that the value of your name**
 18 **or likeness was lessened at all by your appearance**
 19 **in sponsored stories?**
 20 A Depends what the sponsored story was 2:57:59PM
 21 for --
 22 **Q So I take it, then --**
 23 A -- and depends who was reading that
 24 sponsored story.
 25 **Q So with respect to what you believe was a 2:58:10PM**

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1 **sponsored story for UNICEF that contained your name 2:58:12PM**
 2 **or profile picture, do you believe that your name or**
 3 **likeness was lessened -- the value of the name and**
 4 **profile picture was lessened in any way by your**
 5 **appearance in that sponsored story?** 2:58:28PM
 6 A Probably not.
 7 **Q And with respect to any other sponsored**
 8 **stories beyond UNICEF, you just really don't have**
 9 **any way of knowing right now because you don't know**
 10 **what those other organizations are, correct?** 2:58:39PM
 11 A Yes.
 12 MR. ARNS: And that's one of the problems,
 13 not knowing.
 14 THE WITNESS: Yes, that's -- that's a huge
 15 part of the problem. 2:58:45PM
 16 BY MR. BROWN:
 17 **Q Have you read the current terms of use on**
 18 **the Facebook website?**
 19 A No.
 20 **Q Do you recall reading the terms of use on 2:59:19PM**
 21 **the Facebook website at any earlier time?**
 22 A No.
 23 **Q So your recollection, sitting here today,**
 24 **is that you have never once looked at the Facebook**
 25 **terms of use the entire time you have been a 2:59:34PM**

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<p>1 registered member? 2:59:36PM</p> <p>2 A There is a chance that I might have looked</p> <p>3 at them very, very, very, very early on and not in</p> <p>4 any kind of meaningful way and certainly not read</p> <p>5 them all the way through. 2:59:50PM</p> <p>6 Q So in considering whether to be a named</p> <p>7 Plaintiff in this lawsuit, you never read the terms</p> <p>8 of use on the website?</p> <p>9 MR. ARNS: Okay. Wait a minute. Object;</p> <p>10 argumentative, asked and answered. 3:00:11PM</p> <p>11 MR. BROWN: I've not asked and answered</p> <p>12 that question.</p> <p>13 MR. ARNS: She's already said she didn't</p> <p>14 read them. You're saying, "So in preparation for</p> <p>15 this lawsuit, you didn't read them?" It's 3:00:20PM</p> <p>16 argumentative. She said she hasn't read them --</p> <p>17 MR. BROWN: Well, let me just --</p> <p>18 MR. ARNS: -- in any context.</p> <p>19 MR. BROWN: Well, let me just make sure</p> <p>20 I've got the testimony clear. 3:00:28PM</p> <p>21 BY MR. BROWN:</p> <p>22 Q So in preparing to be -- well, strike</p> <p>23 that.</p> <p>24 Before the complaint was filed in this</p> <p>25 lawsuit, did you read the terms of use on the 3:00:37PM</p> <p style="text-align: right;">Page 162</p>	<p>1 condition of registering and you took that action 3:01:53PM</p> <p>2 acknowledging that, that would have been true,</p> <p>3 correct?</p> <p>4 A Yes --</p> <p>5 MR. ARNS: Object -- 3:02:05PM</p> <p>6 THE WITNESS: -- I think.</p> <p>7 MR. ARNS: Object; vague as to what is --</p> <p>8 THE WITNESS: Yeah.</p> <p>9 MR. ARNS: -- true.</p> <p>10 THE WITNESS: I'm so confused. 3:02:08PM</p> <p>11 BY MR. BROWN:</p> <p>12 Q Okay. I'll ask it again.</p> <p>13 A Yeah.</p> <p>14 Q So I want you to assume that there was</p> <p>15 some process in place where you had to acknowledge 3:02:17PM</p> <p>16 that you had read and agreed to abide by the terms</p> <p>17 that were applicable to the website, okay?</p> <p>18 MR. ARNS: That's the hypothetical</p> <p>19 question, okay?</p> <p>20 THE WITNESS: Okay. 3:02:29PM</p> <p>21 MR. ARNS: That's the hypothetical that --</p> <p>22 THE WITNESS: Assume there was --</p> <p>23 MR. ARNS: Yeah.</p> <p>24 THE WITNESS: Assume there was something</p> <p>25 I -- so I'm to assume that there was something that 3:02:38PM</p> <p style="text-align: right;">Page 164</p>
<p>1 Facebook website? 3:00:41PM</p> <p>2 A No.</p> <p>3 MR. ARNS: Yeah. The point is there may</p> <p>4 have been discussions, attorney/client-privileged</p> <p>5 discussions. There were attorney/client-privileged 3:00:49PM</p> <p>6 discussions. That does not mean that Ms. Mainzer is</p> <p>7 not fully briefed on all the issues that are of</p> <p>8 importance.</p> <p>9 And if I could just make this comment:</p> <p>10 There can never be a better class representative 3:01:07PM</p> <p>11 than Ms. Mainzer.</p> <p>12 THE WITNESS: Thank you.</p> <p>13 BY MR. BROWN:</p> <p>14 Q Do you recall at the time that you</p> <p>15 registered for Facebook, in order to complete the 3:01:19PM</p> <p>16 registration, you had to take some action</p> <p>17 acknowledging that you had read and agreed to abide</p> <p>18 by the Facebook terms?</p> <p>19 A I don't specifically remember, but I can</p> <p>20 imagine, based on other situations where -- that are 3:01:31PM</p> <p>21 similar, you have to check a box. I'm sure I just</p> <p>22 checked that box.</p> <p>23 Q And assuming that that was true, that</p> <p>24 there was -- had to be some acknowledgement that you</p> <p>25 had read and agreed to abide by the terms as a 3:01:48PM</p> <p style="text-align: right;">Page 163</p>	<p>1 I had to -- some action I had to take, such as 3:02:41PM</p> <p>2 checking off a box, in order to register for</p> <p>3 Facebook and if -- and if -- under the assumption</p> <p>4 that there was such an action, did I do so? Yes,</p> <p>5 because otherwise I couldn't have registered. 3:02:55PM</p> <p>6 MR. ARNS: Well --</p> <p>7 BY MR. BROWN:</p> <p>8 Q And if you took some action that said,</p> <p>9 "I've read and agree to abide by the terms of use</p> <p>10 for this website," that would have been a true 3:03:08PM</p> <p>11 statement by you, correct?</p> <p>12 MR. ARNS: Well, excuse me. Object;</p> <p>13 that's lack of foundation. It's also an inadequate</p> <p>14 hypothetical.</p> <p>15 We have an expert witness that states 3:03:24PM</p> <p>16 nobody understands your terms and conditions or</p> <p>17 statements of rights and responsibility because they</p> <p>18 are intentionally complex, so people don't</p> <p>19 understand what they are agreeing to.</p> <p>20 MR. BROWN: You can make that objection if 3:03:36PM</p> <p>21 you want, but --</p> <p>22 MR. ARNS: I did.</p> <p>23 MR. BROWN: That's fine.</p> <p>24 BY MR. BROWN:</p> <p>25 Q So the answer is? 3:03:42PM</p> <p style="text-align: right;">Page 165</p>

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<p>1 MR. ARNS: Do you understand the question? 3:03:44PM 2 Do you want to have it read back? I do. 3 THE WITNESS: Yes. 4 MR. ARNS: If you would be kind enough to 5 read it back. 3:03:51PM 6 (Record read as follows: 7 "Q And if you took some 8 action that said, I've read and 9 agree to abide by the terms of 10 use for this website,' that 9:40:44AM 11 would have been a true statement 12 by you, correct?") 13 THE WITNESS: Oh, I see. So -- 14 MR. ARNS: Yeah. Can you answer that? 15 MR. BROWN: Well, you have made your 3:04:20PM 16 objection; now let's see if she can answer it, as 17 opposed to suggesting that somehow she can't. 18 MR. ARNS: Well, I think what it is is 19 a -- 20 MR. BROWN: You know, Bob, we don't need 3:04:26PM 21 to -- 22 THE WITNESS: You know what, it was four 23 years ago and -- over four years ago and I don't 24 remember. 25</p> <p style="text-align: right;">Page 166</p>	<p>1 correct? 3:05:48PM 2 MR. ARNS: Object; lack of foundation, 3 calls for speculation. We have an expert that says 4 nobody does that. 5 BY MR. BROWN: 3:05:56PM 6 Q So you still need to answer the question. 7 A Yeah, I am a -- I am a -- I'm -- I, like 8 many, many, many -- possibly everyone else who is 9 not a lawyer, will check the box that says, "Yes, I 10 read the terms of service" to register for a website 3:06:14PM 11 such as Facebook when asked to read -- to check such 12 a box, even if I haven't read the terms of service 13 and agreed to them -- and understood them, like 14 everybody else in the world, including the birthday 15 party next door. 3:06:35PM 16 MR. ARNS: This may be the last part, 17 so... 18 MR. BROWN: I will tell you one thing. At 19 this moment, I really don't want to be the one to 20 walk into that room. 3:06:45PM 21 MR. ARNS: Everybody shut up. 22 MR. BROWN: "Can you guys just keep it 23 down? Stop the celebration. Too much fun." 24 THE WITNESS: You don't want to be that 25 guy. 3:06:54PM</p> <p style="text-align: right;">Page 168</p>
<p>1 BY MR. BROWN: 3:04:34PM 2 Q But what I'm asking is -- let me just try 3 to set it up again. 4 So I want you to assume that in order to 5 complete the registration process for Facebook -- 3:04:50PM 6 THE WITNESS: It's a party. 7 MR. BROWN: Withdraw that question. 8 This may very well be the noisiest 9 conference room to have a deposition in in the 10 entire world. 3:05:04PM 11 MR. ARNS: It's just a group of happy 12 people. 13 MR. BROWN: All right. Let's keep on 14 going, but if that persists I'll have to go find out 15 what's going on. 3:05:13PM 16 BY MR. BROWN: 17 Q So let's assume that at the time that you 18 registered, that you had to do something that 19 acknowledged that you had read and agreed to abide 20 by the terms of use for the Facebook website, okay? 3:05:28PM 21 A (Nods head.) Okay. 22 Q If you took whatever action was necessary 23 to make that acknowledgement, I take it that when 24 you took that action you were representing that you 25 had, in fact, read and agreed to abide by the terms, 3:05:45PM</p> <p style="text-align: right;">Page 167</p>	<p>1 MR. ARNS: "Happy holidays." It will be 3:06:55PM 2 gone soon. 3 MR. BROWN: That's great for firm morale, 4 you know? 5 BY MR. BROWN: 3:07:14PM 6 Q And you understand that even if you don't 7 read the terms before you register, but 8 acknowledging the terms as a condition of 9 registering -- well, let me withdraw that. That was 10 going to be a confusing question. 3:07:34PM 11 You understand that even if you didn't 12 read the Facebook terms at the time you registered, 13 that you were still bound by them, correct? 14 MR. ARNS: Object; calls for a legal 15 conclusion, lack of foundation, misstates the 3:07:42PM 16 evidence. 17 Do you know? 18 THE WITNESS: Yeah, I -- I -- I don't, 19 really. I think that I -- you know, you see those 20 terms and conditions or terms of service or whatever 3:07:55PM 21 all the time and -- and I -- I don't think -- I 22 don't think I or most people really understand what 23 those are and what you're bound to and I don't -- I 24 don't think that -- that stuff is generally 25 understood. I think it's -- I think it's generally 3:08:14PM</p> <p style="text-align: right;">Page 169</p>

Pages 166 to 169

1 center to learn any information about sponsored 3:18:08PM
 2 stories?
 3 A No.
 4 Q Have you ever used the help center to try
 5 to learn any information about advertisements on 3:18:16PM
 6 Facebook?
 7 A Not that I recall.
 8 Q Do you know the difference between social
 9 ads on Facebook and sponsored stories on Facebook?
 10 MR. ARNS: Object; lack of foundation. 3:18:36PM
 11 THE WITNESS: I don't. I mean -- well,
 12 pursuant to the discussion we've had here today, I
 13 know that sponsored stories have somebody's name in
 14 them and -- I don't know, everything else is
 15 Facebook ads or social? I don't -- I don't know. 3:18:50PM
 16 MR. BROWN: I'm sorry, what was the lack
 17 of foundation?
 18 MR. ARNS: Just -- you asked her if she
 19 knew the difference. I just said object; lack of
 20 foundation. 3:18:59PM
 21 MR. BROWN: So what was the -- I just want
 22 to make sure if I need to lay foundation, I do.
 23 What foundation did it lack?
 24 MR. ARNS: Well, first of all -- okay.
 25 I'll answer that. 3:19:08PM

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1 "Social ads" is a term of art by Facebook. 3:19:19PM
 2 "Sponsored stories" is another term of art used by
 3 Facebook. Neither of them make any sense whatsoever
 4 and nobody knows the difference in those except for
 5 Facebook or people who have really drilled down into 3:19:33PM
 6 trying to understand this.
 7 We know, for example, social ads are
 8 supposed to be ads that are called advertisements,
 9 whereas sponsored stories, which we believe are
 10 advertisements and everybody else in the world does, 3:19:48PM
 11 Facebook says are not advertisements, but they are
 12 the best advertisements that Facebook has and people
 13 have to pay -- advertisers have to pay a premium to
 14 get them.
 15 How would a Facebook member know the 3:20:01PM
 16 difference between that?
 17 MR. BROWN: All right. So I was just
 18 asking not for the -- for a little closing argument,
 19 but rather, why my question lacked foundation. So
 20 it sounds like to me there is nothing I can say 3:20:13PM
 21 that's going to lay a foundation, in your view.
 22 MR. ARNS: That's correct. That's
 23 correct.
 24 BY MR. BROWN:
 25 Q So have you ever heard the term "social 3:20:19PM

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1 ad" before? 3:20:22PM
 2 A Not before, no.
 3 Q Have you ever heard of the concept of
 4 pairing social actions on Facebook with ads?
 5 A Not in those terms. I mean, we've been 3:20:41PM
 6 discussing the whole if you "Like" something you
 7 might become a sponsored story, so that sounds like
 8 what you're talking about. But otherwise, no.
 9 Q So sitting here today, you don't have any
 10 understanding of the difference between social ads 3:20:59PM
 11 on Facebook and sponsored stories on Facebook,
 12 correct?
 13 A Well, I do understand that sponsored
 14 stories have people, Facebook users, in them and
 15 social ads are something else. 3:21:14PM
 16 MR. ARNS: And you have that understanding
 17 based on your lawyer's discussion?
 18 THE WITNESS: Yeah, and -- and the -- and
 19 being here today.
 20 BY MR. BROWN: 3:21:33PM
 21 Q Are you aware that you can prevent the
 22 appearance of your name and profile picture in
 23 sponsored stories?
 24 A I was not aware of that.
 25 Q Have you ever taken any steps to try to 3:21:45PM

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1 determine whether you can prevent the appearance of 3:21:47PM
 2 your name or profile picture in sponsored stories?
 3 A No.
 4 Q Are you aware that you can prevent your
 5 name and -- 3:22:00PM
 6 THE REPORTER: I couldn't hear you. I'm
 7 sorry.
 8 MR. BROWN: I told you I would get quieter
 9 as the day went on.
 10 BY MR. BROWN: 3:22:03PM
 11 Q Are you aware that you can prevent the
 12 name and profile picture -- your name and profile
 13 picture from being paired with ads on Facebook?
 14 A I was not aware of that.
 15 Q Are you familiar with the Facebook privacy 3:22:17PM
 16 settings pages?
 17 MR. ARNS: Lack of foundation.
 18 Do you know?
 19 THE WITNESS: Well, I'm familiar with
 20 the -- the one that -- when you go under "Account 3:22:26PM
 21 Settings" on the top right-hand corner and then
 22 there is a "Privacy Settings" page there. I've --
 23 I've been on that "Privacy Settings" page.
 24 If there is other ones, I don't know about
 25 them. 3:22:37PM

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<p>1 I'm just getting more tea. While I'm 3:23:23PM 2 taking my microphone off, can I go to the ladies' 3 room? 4 MR. BROWN: Let's go off the record for a 5 minute. 3:23:37PM 6 THE VIDEOGRAPHER: This is the end of Disk 7 Number 3. The time is 3:23 p.m. and we are now 8 going off the record. 9 (Recess taken.) 10 THE VIDEOGRAPHER: This is the beginning 3:23:46PM 11 of Disk Number 4. The time is 3:33 p.m. and we are 12 now going back on the record. 13 (Defendants' Exhibit 1021 marked 14 for identification.) 15 BY MR. BROWN: 3:33:11PM 16 Q The court reporter has handed you what has 17 been marked as Exhibit 1021. This is a printout of 18 various settings from your account with a printout 19 date of October 6, 2011. This is -- that was 20 produced by your lawyers, Bates Numbers FACEBOOK 517 3:33:30PM 21 to -528. 22 If you'll turn to page -526, and do you 23 see at the top of that page it says "Facebook Ads"? 24 A Uh-huh. 25 Q And in the second half there, you see 3:34:08PM</p> <p style="text-align: right;">Page 182</p>	<p>1 Q Have you ever tried to change that setting 3:35:48PM 2 so that it says -- so that it says "No one" instead 3 of "Only my friends"? 4 A No, I haven't. 5 So -- so in order to get to that page, I 3:36:02PM 6 would have to go into settings, click "Facebook 7 Ads," click "Edit Social Ads Setting" at the bottom 8 of this page, go -- look at this, and hit "Save 9 Changes" on this to get to this page? 10 Q What did you say right before that page? 3:36:33PM 11 A The -- the -- the one that's -000527, I 12 would have to -- to hit -- 13 Q No. You go directly from the hyperlink at 14 the bottom that says "Edit" -- on page -526 -- 15 A Uh-huh. 3:36:50PM 16 Q -- there's a hyperlink that says: "Edit 17 Social Ads Setting." 18 A Right. And then that takes me to that 19 last page? 20 Q That takes you to the page that's Bates 3:36:57PM 21 numbered -528. 22 A So I'd have to go into settings, go to 23 "Facebook Ads," go to "Edit Social Ads," and then it 24 takes me to that page and then change it and then 25 "Save Changes"? 3:37:08PM</p> <p style="text-align: right;">Page 184</p>
<p>1 there is a section that's called "Ads and Friends"? 3:34:10PM 2 A Uh-huh. 3 Q And then you see that there is a little 4 hyperlink down at the bottom that says: "Edit 5 Social Ads Setting"? 3:34:23PM 6 A I see that. 7 Q Now, can you turn the page to -527 -- 8 sorry, to -528. Turn another page. 9 So I'll just represent to you that when 10 you click on that hyperlink, this is the page to 3:34:38PM 11 which it takes you. 12 Have you ever seen this page before? 13 A No. 14 Q Have you ever attempted to change the 15 setting on this page here? 3:34:57PM 16 A No. 17 Q And are you aware that if you look at the 18 bottom of that page right before the two buttons, 19 you'll see it says: "Pair my socials actions with 20 ads for" -- 3:35:39PM 21 A Uh-huh. 22 Q -- and then it's partially covered up just 23 because that's the way it printed out, but do you 24 see that it says: "Only my friends"? 25 A Uh-huh. I see that. 3:35:45PM</p> <p style="text-align: right;">Page 183</p>	<p>1 Q And you've never done -- 3:37:09PM 2 A I've never done that. 3 MR. ARNS: Can I ask for clarification? 4 You showed her this Exhibit 1021 right after 5 discussing sponsored stories. Are you now taking 3:37:19PM 6 the position -- you, Facebook -- that sponsored 7 stories are ads? 8 MR. BROWN: Why would you -- I don't 9 understand how that follows. I'm just asking 10 questions and showing her documents. 3:37:35PM 11 MR. ARNS: I know, but this -- this 12 documentation she just -- you just showed her, 1021, 13 only has to do with ads, right? Is Facebook now 14 agreeing with our principle that sponsored stories 15 are ads? 3:37:53PM 16 MR. BROWN: Allow me just to laugh out 17 loud. 18 So you know what, this is actually a 19 deposition where I get to ask questions of the 20 witness and so I'm just going to decline to engage 3:38:00PM 21 you on that. But... 22 THE WITNESS: Oh -- oh, so I understand. 23 So this is -- 24 MR. ARNS: Okay. No, no, no. You've 25 already answered everything. 3:38:12PM</p> <p style="text-align: right;">Page 185</p>

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1 THE WITNESS: No. 4:56:25PM
 2 MR. BROWN: I think that -- I think that's
 3 it. I don't think I have any further questions, you
 4 know, subject to the caveat that I mentioned earlier
 5 with respect to the -- with these tweets that are in 4:56:35PM
 6 Exhibit 1024.
 7 Okay. We're finished. Off the record.
 8 THE VIDEOGRAPHER: This is the end of the
 9 deposition. The time is 4:56 p.m. and we are off
 10 the record. 4:56:55PM
 11 (Time noted: 4:56 p.m.)
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1 STATE OF CALIFORNIA)
) ss
 2 COUNTY OF SAN FRANCISCO)
 3
 4 I, KELLI COMBS, CSR NO. 7705, a Certified Shorthand
 5 Reporter of the State of California, do hereby certify:
 6 That the foregoing proceedings were taken before me
 7 at the time and place herein set forth; that any
 8 witnesses in the foregoing proceedings, prior to
 9 testifying, were placed under oath; that the verbatim
 10 record of the proceedings was made by me using machine
 11 shorthand which was thereafter transcribed under my
 12 direction; further, that the foregoing is an accurate
 13 transcription thereof.
 14 I further certify that I am neither financially
 15 interested in the action nor a relative or employee of
 16 any attorney of any of the parties.
 17 IN WITNESS WHEREOF, I have this date subscribed my
 18 name.
 19
 20 Dated: January 9, 2012
 21
 22
 23
 24
 25

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